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FERC/EIS-0247F

Volume II of II

Sierrita Pipeline Project  
*Final Environmental Impact Statement*

Docket Nos.  
CP13-73-000  
CP13-74-000  
PF12-11-000

March 2014



March 2014  
Docket Nos. CP13-73-000, CP13-74-000, and PF12-11-000  
FERC/EIS-0247F

Sierrita Pipeline Project  
*Final Environmental Impact Statement*  
Volume II



Federal Energy Regulatory Commission  
Office of Energy Projects  
Washington, DC 20426

Cooperating Agencies:



U.S. Customs and  
Border Protection

U.S. Customs and Border Protection



U.S. Fish and Wildlife Service  
Arizona Ecological Services Office and  
Buenos Aries National Wildlife Refuge



Arizona Game and Fish Department



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Final Environmental Impact Statement

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## **APPENDIX Z**

### **RESPONSES TO COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT**



**Sierrita Pipeline Project**  
**Comments on the Draft EIS and Responses**

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We note that the clarity of some letter images is low due to the necessity of reducing the files for our responses in this appendix. Appendix Z and each of the individual comment letters are available for viewing in their native formats on the FERC eLibrary website ([www.ferc.gov](http://www.ferc.gov)) to resolve any issues with image constraints due to printing.<sup>1</sup>

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<sup>1</sup> Individual comment letters are available for viewing on the FERC Internet website (<http://www.ferc.gov>). Using the “eLibrary” link, select “General Search” from the eLibrary menu, enter an appropriate date range and “Docket No.” excluding the last three digits (i.e., CP13-73), and follow the instructions. For assistance, call 1-866-208-3676, or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov).



**PUBLIC MEETINGS  
COMMENTS AND RESPONSES**



# PUBLIC MEETINGS

## PM1 – Public Meeting in Three Points, Arizona

1

1 UNITED STATES OF AMERICA  
2 FEDERAL ENERGY REGULATORY COMMISSION  
3

4 - - - - - x  
5 Sierrita Gas Pipeline, LLC. Docket Nos. CP13-74-000  
6 - - - - - x  
7

8 SIERRITA PIPELINE PROJECT  
9  
10 Robles Elementary School  
11 9875 South Sasabe Road  
12 Three Points, Arizona 85753  
13 Thursday, December 12, 2013  
14

15 The public comment meeting, pursuant to notice, convened  
16 at 6:10 p.m., before a Staff Panel:

17 DAVID HANOBIC, Environmental Project Manager  
18 KELLEY MUNOZ, Environmental Project Manager  
19 KIM JESSEN, Merjent  
20 KRISTEN LENZ, Merjent

21 With:  
22 SCOTT RICHARDSON, U.S. Fish and Wildlife Service  
23  
24  
25  
26

I-Z

**PM1 – Public Meeting in Three Points, Arizona (cont’d)**

1	LIST OF PUBLIC SPEAKERS	
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3	Patricia King, King Anvil Ranch	12
4	Mary Miller	14
5	Cindy Granger	18
6	Ton Sheridan, Professor of Anthropology, U. of Arizona	21
7	Cindy Coping, Chairman, Pima Natural Resources	
8	Conservation District	24
9	Melissa Owen, Sierrita Vista Ranch	26
10	Marshall MaGruder	32
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## PM1 – Public Meeting in Three Points, Arizona (cont'd)

3

### PROCEEDINGS

MR. HANOBIC: All right, we're going to go ahead and get started. I'd like to thank everybody for coming tonight.

Good evening. On behalf of the Federal Energy Regulatory Commission, I want to welcome you all to the public comment meeting on the Draft Environmental Impact Statement for the Sierrita Pipeline Project.

Let the record show that the DEIS comment meeting began at 6:05 p.m. on December 12, 2013, in Three Points, Arizona. My name is David Hanobic, and I'm an environmental project manager with the Office of Energy Projects, which is a division of the Federal Energy Regulatory Commission.

To my left is Kelley Munoz, who is also with FERC, Eric Howard and David Swearingen, who are both in the back of the room. We also have John Muehlhausen -- raise your hand, John. In the back -- Kristen Lenz -- raise your hand. And Kim Jessen, beside me, who are with Merjent, an environmental consulting corporation. And they are assisting the FERC in our environmental analysis of the project.

I'd also like to mention that representatives from Sierrita are here with us tonight. They have maps and alignment sheets; will be around after the meeting to answer any specific questions you may have on the project. And I

Z-3

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

4

1 think they'll be located right over there to the right,  
2 after the meeting.

3 The U.S. Fish and Wildlife Service, Arizona  
4 Ecological Services Office, and the Buenos Aires National  
5 Wildlife Refuge, U.S. Customs and Border Protection,, and  
6 Arizona Game and Fish Department are participating as  
7 cooperating agencies in the preparation of the environmental  
8 impact statement. I would like to thank those cooperating  
9 agencies for their continued assistance on our NEPA review.

10 I'd now like Scott Richardson to briefly come up  
11 and just give a brief overview of Fish & Wildlife Service's,  
12 Ecological Services Office's role in the project.

13 MR. RICHARDSON: Good evening. My name is Scott  
14 Richardson, I'm a biologist with the U.S. Fish and Wildlife  
15 Service located in the Tucson Ecological Services Office.

16 I wanted to briefly introduce myself and let you  
17 kind of know what our role in all this is. As a cooperating  
18 agency, we're interested in making sure that the NEPA  
19 document adequately evaluates the impacts to threatened and  
20 endangered species. The U.S. Fish and Wildlife Service has  
21 authority in the Endangered Species Act. We are not in  
22 support of or opposition to the pipeline; we're simply an  
23 agency that, since the FERC is a federal agency undertaking  
24 a federal action, they're required under the Endangered  
25 Species Act to consult with the U.S. Fish and Wildlife  
26

Z-4



## PM1 – Public Meeting in Three Points, Arizona (cont'd)

5

1 Service on issues related to endangered species and critical  
2 habitat.

3 So our role as a cooperating agency is to help  
4 make sure there's adequate information in the environmental  
5 impact statement. We also, as I mentioned, are involved  
6 with the FERC in consultation under the Endangered Species  
7 Act, so we are evaluating the potential effects from this  
8 pipeline on threatened and endangered species and any  
9 proposed or designated critical habitat that might occur  
10 along this pipeline.

11 So it's our job to make sure that from the  
12 Endangered Species Act perspective, all the effects are  
13 adequately analyzed and addressed throughout this process.

14 MR. HANOBIC: Thank you, Scott.

15 You'll note that we have arranged for a court  
16 reporter to transcribe this meeting, so we will have an  
17 accurate record of the meeting. If you'd like to have a  
18 copy of the transcript, you may make arrangements to do so  
19 with the court reporter following this meeting.

20 In February 2013, Sierrita Pipeline LLC filed an  
21 application under Sections 3 and 7 of the Natural Gas Act.  
22 The Sierrita Pipeline Project will consist of approximately  
23 60 miles of 36-inch diameter natural gas pipeline that would  
24 link El Paso's existing system near Tucson, Arizona, to the  
25 U.S.-Mexico border near the town of Sasabe, Arizona.

26

5-Z

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

6

1           The primary purpose of this meeting is to give  
2   you the opportunity to provide specific environmental  
3   comments on the draft EIS prepared by FERC. It will help  
4   most if your comments are as specific as possible regarding  
5   the proposed project and the draft EIS.

6           I would again like to clarify that this project  
7   is being proposed by Sierrita. It is not a project being  
8   proposed by the FERC. Rather, the FERC is a federal agency  
9   responsible for evaluating applications to construct and  
10   operate interstate natural gas pipelines, and for evaluating  
11   natural gas facilities at the border between the United  
12   States and Mexico.

13          The FERC, therefore, is not an advocate for the  
14   project; instead, it's mentioned throughout this process the  
15   FERC is an advocate for the environmental review process.

16          During our review of the project, we assemble  
17   information from a variety of sources, including Sierrita;  
18   you, the public, other state, federal and local agencies,  
19   and our own independent and field work. We analyzed this  
20   information and prepared a Draft Environmental Impact  
21   Statement that was distributed to the public for comment. A  
22   Notice of Availability of the Draft EIS was issued on  
23   October 25th, 2013.

24          We are near the end of the 45-day comment period  
25   on the Draft EIS. The comment period ends this coming  
26

9-Z

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

7

1 Monday, December 17 , 2013. All comments received, written  
2 or spoken, will be addressed in the Final EIS.

3 I encourage you, if you plan to submit comments  
4 and have not, please do so either here today verbally during  
5 the comment portion of this meeting, or in writing; and we  
6 have a form in the back if you would like to use that  
7 tonight, to speak to somebody from FERC and Merjent, and  
8 they'll provide you one.

9 You may also submit comments using the procedures  
10 outlined in the Notice of Availability of the Draft  
11 Environmental Impact Statement, which includes how to submit  
12 those comments electronically. Comments will be considered  
13 of equal weight whether they are verbal, during the comment  
14 portion of tonight's meeting or submitted in writing.

15 If you received a copy of the Draft EIS, you will  
16 automatically receive a copy of the Final EIS. If you did  
17 not get a copy of the draft and would like to get a copy of  
18 the final, please see somebody at the back of the room;  
19 Kristen at the back table, and she can make sure that you  
20 get a copy of the Final EIS.

21 I would like to state that neither the draft nor  
22 the final EIS are decision-making documents. In other  
23 words, once they are issued, it does not determine whether  
24 the project is approved or denied. I also want to  
25 differentiate between the roles of two distinct FERC groups;  
26

L-7



## PM1 – Public Meeting in Three Points, Arizona (cont'd)

8

1 the Commission and environmental staff. Kelly, Eric, Dave  
2 and myself are part of the FERC environmental staff, and we  
3 oversee preparation of the Environmental Impact Statement  
4 for this project. We do not determine whether or not to  
5 approve or deny any project.

6 Instead, the FERC Commission consists of five  
7 presidentially-appointed commissioners who are responsible  
8 for making a determination on whether to issue a  
9 presidential permit and Certificate of Public Convenience  
10 and Necessity to Sierrita. As I mentioned earlier, the EIS  
11 is not a decision-making document, but it does assist the  
12 Commission in determining whether or not to approve the  
13 project.

14 The Commission will consider the environmental  
15 information from the EIS, public comments as well as a host  
16 of non-environmental information such as engineering,  
17 markets, rates in making its decision to approve or deny  
18 Sierrita's request for a presidential permit and  
19 certificate. There is no review of FERC's decisions by the  
20 president or Congress, thus maintaining FERC's role as an  
21 independent regulatory agency and providing for fair and  
22 unbiased decisions. Only after taking the environmental and  
23 non-environmental factors into consideration will the  
24 Commission make its final decision on whether or not to  
25 approve the project.

26

8-Z

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

9

1           If the Commission votes to approve the project  
2     and a presidential permit and certificate are issued,  
3     Sierrita will be required to meet certain conditions  
4     outlined in the certificate.

5           FERC environmental staff would monitor the  
6     project through construction and restoration, performing  
7     daily on-site inspections to document environmental  
8     compliance with applicable laws and regulations, Sierrita's  
9     proposed plans and mitigation, and any additional conditions  
10    in the FERC certificate.

11          That's my overview of the FERC role in this  
12    project.

13          Now we move into the part of the meeting where we  
14    can get comments from everyone in the audience. If you  
15    would rather not speak tonight or don't get to say  
16    everything you wanted to, you may hand in your comments  
17    tonight or make sure that you provide comments by Monday, if  
18    at all possible.

19          As I said before, the meeting is being recorded  
20    by a court reporter, so all your comments will be  
21    transcribed and be part of the public record. I ask tonight  
22    that each speaker identify themselves, and if appropriate,  
23    any agency or group they are representing. Also, please  
24    spell your name for the record and speak clearly into the  
25    microphone. My number one rule is to show respect for  
26

6-Z

**PM1 – Public Meeting in Three Points, Arizona (cont'd)**

10

1 anyone that is up here speaking tonight.

2 We're now ready to call on our first speaker.

3 And I apologize if I say anybody's name wrong.

4 Robert Tourant.

5 MR. TERAN: Good evening. My name is Robert

6 Teran. [spelling] I'm a representative of the Operating

7 Engineers, Pipeline Department in the Tucson area. I'm also

8 appearing tonight as a member of the Western Ranchers

9 Alliance and Rocky Mountain Environmental Labor Coalition.

10 The Western Ranchers Alliance advocates for safe

11 pipeline construction and seeks to ensure that any pipeline

12 that goes through Pima County has well-trained and

13 experienced workers who know what the best practices [are]

14 and to make sure that there are fewer risks and chances for

15 accidents during the construction of the proposed project.

16 The Rocky Mountain Environmental Labor Coalition

17 seeks to unite labor leaders, union members, environmental

18 activists and other concerned citizens to fight for good-

19 paying jobs with benefits, and a clean environment to

20 support the Blue-Green Alliance.

PM1-1 21 On behalf of those organizations, I'm here to  
22 support the proposed Kinder Morgan Sierrita Pipeline Project  
23 and FERC's assurance of the Draft Environmental Impact  
24 Statement for the project. The Sierrita Pipeline Project  
25 will transport natural gas from a tie-in with El Paso

26

PM1-1 The commenter's statement regarding support of the Project is noted.

Z-10



## PM1 – Public Meeting in Three Points, Arizona (cont'd)

11

1 Natural Gas Company's existing south main line system near  
2 Tucson, south to the U.S.-Mexico border near Sasabe,  
3 Arizona.

4 The proposed Sierrita Pipeline Project will  
5 include construction of 60 miles of a 36-inch diameter  
6 natural gas transmission pipeline in Pima County. We're  
7 proud to say that the pipeline project will be built using  
PM1-2 8 labor. The pipeline project construction will create good  
9 jobs here in Arizona and support the long term economic  
10 viability of Arizona communities through the increased use  
11 of local work force and help create long term career  
12 opportunities for other workers.

13 The pipeline workers will receive good wages and  
14 benefits, and will spend those wages in our local Arizona  
15 businesses, and will pay taxes to support our local schools  
16 and public works projects. Paying higher wages and better  
17 fringe benefits helps reduce the hidden cost taxpayers often  
18 bear when workers are paid lower wages and do not receive  
19 health benefits that result in increased claims of income  
20 assistance and expense of providing emergency room health  
21 care services to the uninsured within the local community.

22 The workers on the pipeline project will have  
23 excellent training from union apprentice programs registered  
24 with the U.S. Department of Labor. Having trained workers  
25 building the pipeline should address any safety concerns  
26

PM1-2

The commenter's statement regarding the Project creating jobs and supporting career opportunities is noted. Section 4.10.6 addresses the Project-related impacts on the economy and tax revenues.

11-Z

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

12

1 about the pipeline project. These training programs teach  
2 workers how to comply with federal and safety environmental  
3 requirements, increasing workers' awareness at the work  
4 site.

5 Trained workers are going to make better and  
6 safer pipeline for the following of workplace safety  
7 guidelines, pipeline safety rules and environmental  
8 regulations. Workers who have completed the apprenticeship  
9 programs are less likely to have accidents or perform shoddy  
10 work. Properly trained workers therefore lessen the chance  
11 of welding fails, pipeline leaking, or pipelines that may  
12 rupture.

13 In conclusion, we support the proposed Sierrita  
14 pipeline project, and request that FERC issue the Final  
15 Environmental Impact Statement so the construction of the  
16 project can begin in 2014. Thank you.

17 MR. HANOBIC: Thank you.

18 Our next speaker on the list is Patricia King.

19 MS. KING: Hello, my name is Pat King,  
20 [spelling]. I represent King Anvil Ranch, and Altar Valley  
21 Conservation Alliance; member.

22 The Altar Valley is my home, and ranching is my  
23 business. The King Anvil Ranch has been in our family since  
24 1895, and handed down for four generations. There are a few  
25 points I would like to make about the Draft EIS.

26

Z-12

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

13

PM1-3 1 The document is full of references where Sierrita  
2 should file revised versions of restoration plans and other  
3 documents. These are all due within a day of when comments  
4 are due. How does one then respond? This EIS document is  
5 by no means a document that we can comment on because it is  
6 so incomplete.

PM1-4 7 FERC has adopted the decision that this pipeline  
8 must go through Sasabe. The Alliance was concerned that  
9 Kinder Morgan was signing agreements with their Mexican  
10 counterparts months before this Draft Environmental Impact  
11 Statement came out. And any decision was made by the  
12 Commission. And we wrote of this violation to the FERC  
13 department.

14 The fact that Sierrita signed that agreement does  
15 not bind the Commission to this location. We strongly  
16 protest the fact that you look at other alternatives,  
17 insisting the crossing point be Sasabe. That makes every  
18 other alternative longer and more environmentally  
19 destructive.

20 As stated in the document, Sierrita did not  
21 provide you with that documentation of whether it would be  
22 feasible to cross in Nogales, because it appears the deal is  
23 already made, and no one is holding Sierrita accountable.

PM1-5 24 I also question that the substance of information  
25 within this draft document is accurate, reliable and  
26

PM1-3

While some information was still pending at the time of issuance of the draft EIS, the lack of this final information does not deprive the public of a meaningful opportunity to comment on a substantial adverse environmental effect of the Project or a feasible way to mitigate or avoid such effect. The EIS includes sufficient detail to enable the reader to understand and consider the issues raised by the proposed Project and addresses a reasonable range of alternatives.

The FERC continued to accept comments on the draft EIS and other related materials placed into the record past the end date of the comment period up until the point of publication of the final EIS.

PM1-4

FERC staff reviews applications for interstate natural gas pipeline projects in accordance with an applicant's stated objective(s) in order to disclose the environmental impacts of a proposal to inform the decision makers and, in accordance with NEPA, evaluate reasonable alternatives to a project. However, the FERC as a matter of policy and in accordance with the NGA and other governing regulations, does not direct the development of the gas industry's infrastructure regionally or on a project-by-project basis. As such, FERC staff's evaluation of reasonable alternatives does not include setting project objectives, determining what an applicant's objective "should" be, nor does it include redefining the objectives of a project. This does not mean that FERC staff cannot recommend a modification to a project or a different routing option; however, the FERC staff's review is based on ensuring that any modifications or alternatives it recommends in the EIS would meet the applicant's stated objective(s). The Commissioners at FERC ultimately have the authority to evaluate the merits of a project's objective and either approve the proposal, with or without modification, or decide to not approve the project. Should the Commission decide that a project is not in the public convenience and necessity, it would deny the project (in effect, selecting the No Action Alternative) versus designing or recommending a new project with different objectives.

We analyzed several route alternatives to determine if the route alternatives would avoid or reduce impacts on environmentally sensitive resources. We also updated section 3.5 of the final EIS to include further discussion of alternative delivery locations at the U.S.-Mexico border. However, we reiterate that alternative delivery points are not viable because they do not meet the Project's objectives.

If gas supplies are needed in Nogales, discussion of this need should occur with EPNG and/or other companies that could develop a project to serve Nogales with additional supplies of gas.

PM1-5

The EIS was prepared in accordance with NEPA, CEQ guidelines, and other applicable requirements. The EIS includes sufficient detail to enable the reader to understand and consider the issues raised by the proposed Project and addresses a reasonable range of alternatives. The EIS is consistent with

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

14

PM1-5  
(cont'd)

1 unbiased. As I said, I am a rancher, over and over. Cattle  
2 grazing is made the scapegoat of why erosion is occurring  
3 and why restoration will be unsuccessful; also that  
4 overgrazing is ongoing. Comments like "overgrazed, fire-  
5 damaged rangeland" and the previously existing dense, varied  
6 native grasslands were intentionally replaced through  
7 vegetation slashing, burning and seeding by ranchers in  
8 favor of fast-growing nonnative vegetation.

9 Where in the world did this idea come from? Over  
10 this whole watershed we were supposed to have done this? Is  
11 that what that document is saying?

12 Altar Valley is a very special place. How sad  
13 to read this document and note how we failed to impart that  
14 concept when we took you on the tours. Thank you.

15 MR. HANOBIC: Thank you.

16 Next speaker is Mary Miller.

17 MS. MILLER: I'm Mary Miller [spelling], and I'm  
18 representing myself tonight. I'm also a signer on the Altar  
19 Valley Conservation Alliance written comments, which will be  
20 much longer than what I'm going to say right now.

21 Today I am here to speak to you, representatives  
22 of FERC, and also Kinder Morgan on a more personal level.  
23 FERC, shame on you. Throughout these past two years, I've  
24 been very impressed by your staff's intelligence, up-front,  
25 solid communication and commitment to an excellent public  
26

PM1-5  
(cont'd)

FERC style, formatting, and policy regarding NEPA evaluation of alternatives and different types of impacts, including cumulative impacts. Duration and significance of impacts are discussed throughout the various EIS resource sections. The EIS is comprehensive and thorough in its identification and evaluation of feasible mitigation measures to reduce those effects whenever possible. Sierrita's construction and restoration plans contain numerous mitigation measures to avoid or reduce Project-related impacts and promote revegetation and restoration of the Project area following construction.

This final EIS is not intended to be defamatory to livestock grazing but is intended to describe the current environment, as well as the improvements that ranchers are currently making to the environment of the Altar Valley. The discussion on grazing is meant to better describe the impacts associated with the proposed Project by ensuring that the current environmental conditions that the Project would impact are accurately described. Sierrita has proposed, and we have recommended, appropriate restoration measures that are intended to not conflict with current grazing practices and the improvements being implemented by ranchers of the Altar Valley.

Sections 4.3.2, 4.4.1, and 4.14 (Environmental Setting) have been updated to include additional information regarding past and ongoing conditions of the Altar Valley, including historical cattle grazing (which has influenced the current conditions in the Project area), efforts to promote restoration of the Altar Valley, and modified grazing management practices.

Along with consultations with the cooperating agencies, appendix X of the final EIS lists the references associated with the information presented in the EIS.

Z-14

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

15

1 process.

2 The project manager, Mr. Hanobic, has been in my  
3 opinion an exemplary public servant. However, in this Draft  
PM1-6 4 EIS you have failed. First, you mock the heart of the  
5 National Environmental Policy Act in your failure to provide  
6 even a rudimentary analysis of alternatives.

PM1-7 7 Second, and very close to my heart, you mock the  
8 collective conservation work of all of us who live and work  
9 here in the Altar Valley. You characterize the entire  
10 project area in a sweeping fashion that fails to distinguish  
11 be the more populated northern portion and the greenfield  
12 southern portion. Your understanding of the Altar Valley  
13 Watershed is flagrantly ignorant of complex historical  
14 trends, particularly with regard to grassland conditions and  
15 current goals.

PM1-8 16 Third, your analysis of impacts is based on a  
17 fundamentally flawed assumption that restoration will be  
18 successful and that human access can and will be controlled,  
19 both of which you contradict within your own document. We  
20 can only assume that you've done so on purpose to grease the  
21 skids for a project that has been pre-approved in proverbial  
22 cigar smoke-filled rooms back in your home town of  
23 Washington, D.C. and across the border in Mexico.

24 Kinder Morgan -- this is why I want to uphold  
25 this -- while you've extended the proverbial olive branch,  
26

PM1-6 The EIS was prepared in accordance with NEPA, CEQ guidelines, and other applicable requirements. Section 3 of the EIS considers alternatives consistent with NEPA and FERC policy, including the No Action Alternative, increased energy efficiency and conservation, alternative energy sources, system alternatives, route alternatives, and route variations. We also updated section 3.5 of the final EIS to include further discussion of alternative delivery locations at the U.S.-Mexico border.

PM1-7 This final EIS is not intended to be defamatory to livestock grazing but is intended to describe the current environment, as well as the improvements that ranchers are currently making to the environment of the Altar Valley. The discussion on grazing is meant to better describe the impacts associated with the proposed Project by ensuring that the current environmental conditions that the Project would impact are accurately described. Sierrita has proposed, and we have recommended, appropriate restoration measures that are intended to not conflict with current grazing practices and the improvements being implemented by ranchers of the Altar Valley.

Sections 4.3.2, 4.4.1, and 4.14 (Environmental Setting) have been updated to include additional information regarding past and ongoing conditions of the Altar Valley, including historical cattle grazing (which has influenced the current conditions in the Project area), efforts to promote restoration of the Altar Valley, and modified grazing management practices.

PM1-8 The EIS does not imply that all access can be controlled and acknowledges this fact, but does identify in section 4.9.2 Sierrita's proposed measures intended to deter unauthorized uses of the right-of-way. We determined that implementation of the construction and mitigation measures identified throughout the EIS, as well as implementation of Sierrita's Plan, Procedures; *Reclamation Plan*, *Post-Construction Vegetation Monitoring Document*; and *Noxious Weed Control Plan* (see appendices E, F, G, H, and I, respectively, of the final EIS), would promote restoration of the right-of-way. However, as acknowledged in sections 4.4.8, 4.8.4, 4.8.5, 4.9.2, and 4.10.6 that this could take a variable amount of time.

Sierrita is required to ensure its Project follows the construction procedures and mitigation measures described in its applications and supplements including responses to staff data requests and as identified in the EIS, unless modified by any Order, and fulfills the intent of its various Project-related plans. Failure to meet certain performance standards would result in issuance of noncompliance reports and, if the violation is repeated, could result in a stop-work order or enforcement actions by the FERC.



## PM1 – Public Meeting in Three Points, Arizona (cont'd)

16

1 we do have a long way to go. Your approach to this project  
2 from the beginning has created a deep, dark well, and it's  
3 going to take a lot more work to climb out. You've entered  
4 this valley with a 'might makes right' attitude and the  
5 message that 'this project is coming your way.' Your  
6 approach from the beginning has made us very defensive. I  
7 don't think I really need to say that.

8 You've approached people and organizations  
9 separately, with the apparent intent to 'divide and  
10 conquer.' In particular, you have not handled the Buenos  
11 Aires National Wildlife Refuge and its relation with its  
12 watershed neighbors with any care nor creativity.

13 So where do we go from here? It is no secret  
14 that those of us who live in the Altar Valley and work on  
15 behalf of the Altar Valley Conservation Alliance do not want  
16 this project here in the Valley. Pima County's rigorous  
17 county-wide Sonoran Desert Conservation Plan, the  
18 Conservation Land System investments, and the Multispecies  
19 Habitat Conservation Plan demonstrate that others value the  
20 Altar Valley landscape. This is not just a 'NIMBY,' not in  
21 my back yard reaction.

22 Given the scarcity of undeveloped working  
23 landscapes, which is indeed what the Altar Valley is despite  
PM1-9 24 FERC's portrayal, a wise approach to regional planning would  
25 collocate this pipeline in a corridor already devoted to  
26

PM1-9

As discussed in section 3.5, we analyzed several route alternatives that would involve collocation to avoid or reduce impacts on environmentally sensitive resources, including alternatives along already established corridors in the Santa Cruz Valley (the Nogales West Route Alternative and Nogales East Route Alternative) and along Highway 286 (the East Route Alternative).

## PM1 – Public Meeting in Three Points, Arizona (cont’d)

17

PM1-9 | 1 natural gas transmission or other intense human use.  
(cont'd) 2 Getting back to the Altar Valley, there are a  
3 number of important actions that should be taken to improve  
4 this Environmental Impact Statement and climb out of the  
5 deep well that I described earlier.

PM1-10 | 6 Number One, the Draft EIS should include a  
7 thorough and complete description of at least two  
8 alternatives in the Altar Valley; the Eastern or Highway  
9 Route, and the current preferred Western Route. Each of  
10 these alternatives should include site-specific mitigation  
11 activities. A thorough and realistic impact analysis will  
12 reveal substantive differences between the routes.

PM1-11 | 13 Number Two, Kinder Morgan needs to return to the  
14 U.S. Fish and Wildlife Service to revisit the Eastern, or  
15 Highway route. Kinder Morgan must recognize that the Fish  
16 and Wildlife Service cannot take this lightly; and there are  
17 issues of national precedence at stake. But in this  
18 instance, the better choice for land and resources involves  
19 collocation of the project with existing highway and utility  
20 infrastructure. Again, a draft EIS with a true  
21 alternatives analysis would support this effort.

PM1-12 | 22 Three. We've invested significant effort in  
23 commenting on reclamation plans and requested site-specific  
24 details, as well as clarity about how all of the mitigation  
25 planning fits together. And none of these have been  
26

PM1-10 As discussed in section 3.5, we analyzed several route alternatives to determine if the route alternatives would avoid or reduce impacts on environmentally sensitive resources, including the East Route Alternative, which would cross the BANWR and largely be collocated with Highway 286. As stated in section 3.5.1, we concluded that the East Route Alternative would result in less environmental impact on most resources as compared to the proposed route; however the FWS determined that the East Route Alternative would materially interfere with and detract from fulfillment of the FWS and BANWR mission and purpose and therefore could not be authorized. The FERC has no authority to request or require another federal agency to approve a pipeline within that agency's administrative boundaries, nor does the NGA grant eminent domain authority to an applicant to condemn federal lands. Therefore, any recommendation by FERC to require a route on federal lands where authorization is not granted would effectively be a recommendation of the No Action Alternative. We find no reason to do so, as we concluded that the proposed Project (along with our recommendations) can be constructed with an acceptable level of environmental impact. Because the East Route Alternative is not permissible, a full scale environmental analysis is not warranted. The Commission will take our environmental conclusions into consideration when it decides whether or not to approve the Project.

PM1-11 Discussions relating to land swaps on NWRS lands are between the FWS and an applicant. The FERC has no authority to develop and/or require a "land swap" for any federal lands crossed by a project. Further, it is our understanding that based on discussions with the BANWR no land swap is under consideration with the FWS.

Also see response to comment PM1-4.

PM1-12 Section 4.9.2 has been updated to include information regarding Sierrita's criteria and sequential timing of each type of restoration measure.

Sierrita filed revised versions of its Plan, Procedures, *Reclamation Plan*, *Post-Construction Vegetation Monitoring Document* since issuance of the draft EIS. The FERC continued to accept comments on the draft EIS and any other materials placed into the record past the end date of the draft EIS comment period. Sierrita's plans have been revised based on FERC staff and stakeholder comments, and are included as appendices of the final EIS.

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

18

PM1-12 (cont'd) 1 specifically addressed in the Draft EIS. We do appreciate  
2 FERC's request for additional data on these important  
3 matters.

PM1-13 4 To this effect, we feel that FERC should either  
5 extend the comment period for at least 30 days beyond the  
6 last day of Kinder Morgan's final data submission, or file a

PM1-14 7 supplemental Draft EIS to assure that the public has ample  
8 opportunity to comment on the substantial and important  
9 changes that FERC has requested, and substantial issues that  
10 we and others have raised in our comments.

11 Fifth and last, while I recognize that this topic  
12 is outside the scope of the Draft EIS and FERC's area of  
13 influence, we do encourage Kinder Morgan to seek ways to  
14 create lasting local benefits. If you succeed in your  
15 desire to put this pipeline in the Altar Valley and the  
16 surrounding communities of Three Points and Sasabe, we hope  
17 that you become a model corporate citizen of this area.  
18 And we will help you do that; but we do have some work yet  
19 to do. Thank you.

20 MR. HANOBIC: Thank you very much.

21 Our next speaker is Cindy Granger.

22 MS. GRANGER: Cindy Granger [spelling]. Mary is  
23 a tough act to follow; I'm not that organized.

24 I read the Draft EIS and I have some questions  
25 and comments. I was really disappointed in FERC and in  
26

PM1-13 The commenter's statement regarding extending the draft EIS comment period by 30 days is noted.

PM1-14 The commenter's statement regarding issuing a supplemental draft EIS is noted.

8-Z

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

19

1 Kinder Morgan. I feel like everyone's being pretty cavalier  
PM1-15 2 about this whole process at this point, and I expected more  
3 concrete information on reclamation and rehab.

4 I read this a few times and I couldn't ever find  
5 that they addressed it; now I'm finding out why, they're not  
6 supposed to do it for another few days. I'm concerned  
7 because when we had the meeting at Casino del Sol and you  
8 didn't have a court reporter, but if you recall, they  
9 submitted some rehab and reformation that had absolutely  
10 nothing to do up here; they mentioned Douglas Fir Trees and  
11 all sorts of stuff that were from other parts of the  
12 country. And I expected, in the Draft EIS that all of that  
13 would be changed and corrected and that they would list all  
14 of the mitigation and rehab; and that doesn't seem to be the  
15 case.

PM1-16 16 And then I have a comment or question; it says in  
17 the Draft EIS that Sierrita will conduct pre-construction  
18 surveys, and that they would remove inactive nests of  
19 raptors and other migratory birds. And I'm wondering, who  
20 is going to police them on that? Are they just going to do  
21 it and we take them at their word? How do they know if the  
22 inactive nest is truly an inactive nest? The birds use it  
23 maybe once or twice a year. Eagles tend to use their next  
24 every other year.

25 I just feel like there's no regard for our area  
26

PM1-15 Sierrita filed revised versions of its Plan, Procedures, *Reclamation Plan*, *Post-Construction Vegetation Monitoring Document* since issuance of the draft EIS. The FERC continued to accept comments on the draft EIS and any other materials placed into the record past the end date of the draft EIS comment period. Sierrita's plans have been revised based on FERC staff and stakeholder comments, and are included as appendices of the final EIS.

PM1-16 It is within the jurisdiction of the FWS to enforce the MBTA and the BGEPA. As described in section 4.5.7, Sierrita would conduct pre-construction surveys to document local occurrences of nesting birds, including raptors, unless construction would take place outside of the nesting periods. Sierrita also committed to having a qualified biologist assigned to each survey spread that would conduct an active nest survey in the area to be cleared. The biologist would consult with the Tucson FWS-AESO to obtain additional guidance on conducting the necessary surveys; FWS staff at the Regional Migratory Bird Management Office may provide additional input. The biologist would monitor nests within the clearing area and the associated birds' behavior, and would promptly notify and consult FWS staff in cases where nesting migratory birds are located.

Z-19

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

20

1 or what -- it's just like, they just want to get the job  
2 done and they don't care about us, they don't care about the  
3 land, they don't respect the land or any of us.

PM1-17 4 You mention that it's likely to adversely affect  
5 the area and some adverse environmental; however, they will  
6 be reduced to less than significant concerns because of  
7 Sierrita's proposed mitigation. Again, I'd like to see  
8 that mitigation.

PM1-18 9 And then under 5.1.1 Geology, it's under  
10 Blasting, which I didn't know anything about until I read  
11 it, I'm concerned because my house is very close to where  
12 they think they're going to blast on Sasabe Highway, mile  
13 post 39.2. Our house is the last formal house on a grid out  
14 there. And we have a large in-ground swimming pool, we have  
15 a large house. Every time there's a sonic boom, things --  
16 you know, the house creaks and stuff. What is blasting  
17 going to do?

18 I want to know when they're going to blast so I  
19 can be home, and if something happens, I can be calling 9/11  
20 and get my pool fixed if they crack my pool or my house. So  
21 I don't know why they would need to blast. I want that  
22 addressed.

PM1-19 23 And then at the meeting at Casino del Sol, I also  
24 talked about fire and fire-wise. And they were talking  
25 about mulching and all this stuff, and thinking that they  
26

PM1-17 Sierrita's proposed construction, mitigation, and restoration methods are discussed throughout the EIS including sections 4.2.1.1, 4.4.8, 4.5.2, and 4.8.1.1. Sierrita's Plan, Procedures, *Reclamation Plan*, and *Post-Construction Vegetation Monitoring Document* detail Sierrita's Project-specific restoration methods.

PM1-18 As discussed in section 4.1.3.2, Sierrita may need to blast areas of shallow bedrock for installation of the pipeline. Sierrita would comply with all federal, state, and local regulations governing the use of explosives and fugitive dust control measures. Precautionary measures that Sierrita would adhere to at blasting locations are described in its *Blast Plan* (see appendix K of the final EIS).

PM1-19 Section 4.4.8.2 has been updated to acknowledge the potential for wildfires as a result of stacked vegetation and mulch along the right-of-way.

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

21

PM1-19  
(cont'd)

1 would mulch to keep moisture in. And with our low humidity  
2 and lack of rain, except during monsoon season, there is no  
3 such thing as mulch. All they're going to do is create  
4 wildfire pattern with all that dry stuff they're going to  
5 pile up. And I didn't see any of that mentioned or  
6 addressed, so I don't think you guys or them have looked  
7 into fire-wise and how to properly protect our valley from  
8 fire.

9 So there's a lot of other things, but I guess  
10 those are the main ones. Thank you.

11 MR. HANOBIC: Thank you very much.

12 Our next speaker is Tom Sheridan.

13 MR. SHERIDAN: I am Tom Sheridan, I have lost my  
14 voice, so Christine Sooter is going to read my comments  
15 about what I consider a woefully inadequate Draft EIS.

16 [MS. SOOTER:] Tom Sheridan, [spelling],  
17 Professor of Anthology at the University of Arizona, and  
18 Chair of the Altar Valley Conservation Alliance, Science  
19 Advisory Board.

20 He concludes that the Draft EIS, seven points.

PM1-20

21 First being: Fails to comply with the fundamental  
22 requirement of the National Environmental Policy Act, NEPA,  
23 to thoroughly analyze alternatives to the proposed action.  
24 FERC should adequately analyze other pipeline routes,  
25 including those along already-established utility corridors  
26

PM1-20 See responses to comments PM1-4, PM1-9, and PM1-10.

Z-21



## PM1 – Public Meeting in Three Points, Arizona (cont'd)

22

PM1-20 (cont'd) 1 in the Santa Cruz Valley or along Highway 286 all the way to  
2 the border at Sasabe.

PM1-21 3 Two, it grossly underestimates the amount of  
4 erosion that will be caused by construction across one  
5 perennial and 206 ephemeral water bodies. And fails to  
6 demand adequate mitigation to prevent or repair such  
7 erosion. Based upon erosion control projects, ABCA has  
8 already carried out, along ephemeral washes, that ABCA  
9 estimates erosion control mitigation would cost  
10 approximately \$31,000 per wash, or nearly \$6.4 million for  
11 the 206 washes the pipeline would cross.

PM1-22 12 Fourth, erroneously concludes that ephemeral  
13 washes are anticipated to be dry at the time of crossing,  
14 even though construction would take place during the summer  
15 months in season.

PM1-23 16 If and when construction takes place, it should  
17 occur during a normally dry time of the year.

PM1-24 18 Fifth, it fails to demand adequate mitigation for  
19 the restoration of all affected areas, that would allow it  
20 to revert to pre-construction conditions and uses. FERC has  
21 made a decision to only consider the effects on the pipeline  
22 road and right-of-way.

23 The Agency has not expanded its analysis to areas  
24 outside of that right-of-way. To quote: The region of  
25 influence as the area immediately surrounded the proposed  
26

PM1-21 Sections 4.3.2.5 and 4.3.2.6 of the EIS and Sierrita's Plan, Procedures, Reclamation Plan, and Post-Construction Vegetation Monitoring Document address potential impacts associated with construction across ephemeral washes and the erosion control measures that would be implemented to mitigate these impacts. Sierrita also committed to employing an onsite hydrogeologist during dry wash construction to evaluate erosion potential, calculate scour depth and setback distances, and provide site recommendations based on current conditions.

PM1-22 Based on clarification from Sierrita and as discussed more fully in section F of its Plan, specific to dry wash crossings, Sierrita's construction contractor and EIs would monitor upcoming weather forecasts to determine if significant rainfall is anticipated at times when construction across dry washes is planned. To the extent practicable, Sierrita would avoid installing the pipeline across dry washes during periods of anticipated rainfall. In the event that rainfall is not expected to be significant (e.g., less than 0.5 inch) and Sierrita determines that construction should proceed, environmental crews would be notified of the location of planned crossings and would be available to respond quickly if additional erosion control devices are needed. If flow conditions develop during construction of a given dry wash crossing, Sierrita's EIs and environmental crews would be notified immediately to determine the extent of the flow and would install additional erosion control devices as necessary. If flows are significant and siltation is likely to occur, Sierrita would stop work until flows have ceased or have decreased to the point where potential sedimentation can be contained within the construction work area.

PM1-23 The commenter's statement regarding the construction schedule is noted.

PM1-24 Sierrita would be required to limit ground disturbance to the areas identified in this EIS and any Order, if approved. The potential for indirect impacts, including outside of the right-of-way boundaries, are acknowledged throughout the EIS. Furthermore, regardless of the erosion control material or method adopted, Sierrita would be required to use, install, and maintain erosion control devices in a manner that reduces runoff velocity, diverts water off the construction right-of-way, and/or prevents the deposition of sediments beyond approved workspaces or into sensitive resources. Any Project-related ground disturbing activities outside approved areas would require FERC approval, with the exception of off right-of-way activities needed to comply with Sierrita's Plan and Procedures (e.g., slope breakers, energy-dissipating devices, dewatering structures) that do not affect other landowners or sensitive environmental resource areas. All construction or restoration activities outside of authorized areas are subject to all applicable survey and permit requirements, land-managing agency easement grants, and landowner easement agreements. Any project that is approved conveys the right of eminent domain and this authority is specifically spelled out under the NGA for installation and operation of pipelines; however, the FERC has no authority to authorize off-site mitigation.

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

23

PM1-24  
(cont'd)

1 pipeline route. This is unacceptable, especially for a  
2 project that crosscuts so many washes. The downstream and  
3 head cutting potential for this project have not been  
4 investigated, even though ABCA has offered to share its  
5 experience and its expertise. FERC needs to consult again  
6 with the U.S. Fish and Wildlife Service, Sierrita ABCA and  
7 geomorphologist and hydrological engineers to better  
8 characterize the range and severity of the impacts.

PM1-25

9 Six, the Draft Environmental Impact Statement  
10 fails to recognize that such construction would create  
11 another corridor for drug and human smuggling, along one of  
12 the most active smuggling routes along the entire U.S.-  
13 Mexico border. Thereby preventing the quote: affected areas  
14 from reverting to the pre-construction conditions and uses.  
15 FERC's Draft EIS claims that the Border Patrol has the  
16 resources and human power to adequately surveil the new  
17 route. An assertion that he feels is optimistic at best,  
18 but does not consider the environmental damage caused by  
19 drug and human smugglers.

PM1-26

20 And finally, it fails to acknowledge or  
21 adequately mitigate for the destruction or degradation of  
22 important cultural resources, particularly sacred sites  
23 identified by the Tohono O'odham Nation, and FERC needs to  
24 consult with the nation and develop a mitigation plan to  
25 address its concerns.

26

PM1-25

The EIS acknowledges the impacts related to unauthorized right-of-way uses in sections 4.3.2.5, 4.4.8, and 4.9.2. Mitigation measures to reduce unauthorized uses and promote revegetation are discussed in section 4.9.2, as well as in Sierrita's Plan, Procedures, *Reclamation Plan*, *Post-Construction Vegetation Monitoring Document*, and *Noxious Weed Control Plan*. We also note that the CBP cooperated in preparation of the EIS and the document represents the CBP's current position with regard to the Project and related impacts.

Also see response to comment PM1-8.

PM1-26

Section 4.11.4 includes a discussion of required mitigation for impacts on cultural resources sites that are eligible for listing on the NRHP, and a discussion of the FERC's responsibilities under the NHPA. All evaluation reports and treatment plans are required to be filed with the Secretary and approved by the Director of OEP. The FERC is continuing its consultations with the Tohono O'odham Nation regarding Project impacts on cultural resources.

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

24

1 MR. HANOBIC: Thank you very much.

2 Our next speaker is Cindy Cobic.

3 MS. COPING: Good evening, my name is Cindy

4 Coping [spelling]. I'm the Chairman of the Pima Natural  
5 Resources Conservation District.

6 The Conservation District was established by  
7 Arizona statute; and one of the missions of this is to  
8 protect water rights. There are some problems in this DEIS,  
9 and we believe it ought to be withdrawn. There's inaccurate  
10 and irrelevant information about livestock grazing written  
11 into this. It looks like it was copied and pasted from some  
12 literature that might have been put out by radical  
13 environmentalists, and found its way into Fish & Wildlife  
14 documents.

PM1-27 15 You're comparing -- over and over again the DEIS  
16 bashes ranching as if all grazing is the same; all grazing  
17 is overgrazing; all grazing is the same as it was done back  
18 in 1890. It's not. What we have in the Altar Valley is  
19 controlled grazing. The studies that are being referenced  
20 are studies that compare uncontrolled grazing to grazing  
21 exclusion. They are totally irrelevant because they don't  
22 address controlled grazing, which is the only kind of  
23 grazing that's done in the Altar Valley.

PM1-28 24 There's another issue with water rights, and that  
25 is that we're seeing hydrostatic tests, and the water from  
26

PM1-27 See response to comment PM1-7.

Sections 4.3.2, 4.4.1, and 4.14 (Environmental Setting) have been updated to include information from documents and sources provided by commentors on the draft EIS. Appendix X of the final EIS lists the references associated with this information.

PM1-28 As discussed in section 4.3.2.8, as recommended by the FWS and AGFD, in an effort to enhance livestock range conditions and wildlife habitat, Sierrita would discharge hydrostatic test water into livestock tanks if certain conditions are met, including "the landowner or land-managing agency approves the use of the water in writing."

Z-24

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

25

PM1-28 (cont'd) 1 the hydrostatic test could be shot into somebody's stock  
2 pond. Well, that stock pond is a surface water right that's  
3 owned privately. It's not owned by the FLMA, but the DEIS  
4 proposes that this can be done as long as they've got the  
5 written signature of the land management agency, who has no  
6 authority over that surface water right. And it doesn't  
7 mention that it needs the written permission of the person  
8 who owns the surface water right.

PM1-29 9 Another thing about stock ponds is they're called  
10 'wildlife livestock.' Wildlife-livestock tanks. These are  
11 not wildlife-livestock tanks; they are livestock tanks.  
12 They were put in for livestock; they were put in by people  
13 who owned surface water rights. They would not be there if  
14 it were not for livestock.

PM1-30 15 The DEIS does not recognize that the livestock  
16 are why the tank is there. The DEIS, we believe, is so full  
17 of inaccuracies and incomplete information and contradictory  
18 information such as the Mexican garter snake. It says  
19 overgrazing and water diversions threaten the Mexican garter  
20 snake, and then in the next paragraph it says the Mexican  
21 garter snake depends on livestock ticks. Well, how does  
22 the livestock tick get there? By diverting water. By  
23 having cattle there. So this is arbitrary and capricious,  
24 it's self-contradictory.

25 I will not repeat what the Altar Valley  
26

PM1-29

Based on consultations with the FWS, it was recommended that these features be referred to “wildlife/livestock tanks” to show that they are utilized by both livestock and wildlife. However, as a result of comments objecting to this term, the EIS has been modified so that these features are identified as “livestock tanks.”

PM1-30

The major threats to the northern Mexican gartersnake listed in section 4.7.1.6 are based on information provided in AGFD, 2001b ([http://www.azgfd.gov/w\\_c/edits/documents/Thameqme.fi\\_001.pdf](http://www.azgfd.gov/w_c/edits/documents/Thameqme.fi_001.pdf)), which describes factors that have or could contribute to the decline of the species over its entire range. As noted in section 4.7.1.6, this species ranges from southeastern and southwestern New Mexico south into southwest Mexico to Oaxaca. As described under the Proposed Critical Habitat heading under section 4.7.1.6, suitable habitat of the northern Mexican gartersnake consists of both aquatic and terrestrial elements. In the FWS Designation of Critical Habitat for the Northern Mexican Gartersnake and Narrow-Headed Gartersnake (78 FR 41550) ([http://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/N-H\\_Gartersnake/2GSnakes\\_pCH\\_\(78%20FR%2041550\)\\_7-10-13.pdf](http://www.fws.gov/southwest/es/arizona/Documents/SpeciesDocs/N-H_Gartersnake/2GSnakes_pCH_(78%20FR%2041550)_7-10-13.pdf)), the FWS cites “excessive sedimentation from livestock overgrazing....” as an activity that could contribute to sediment deposition within the stream channel or pond that is habitat for the northern Mexican gartersnake. The FWS service also cites livestock grazing that results in waters heavily polluted by feces as an action that could alter water chemistry beyond the tolerance limits of a gartersnake prey base. However, the FERC and FWS also acknowledge that the creation of tanks for the purposes of livestock grazing has also served to provide additional potentially suitable aquatic habitat for this species and its prey. Section 4.7.1.6 has been updated with the additional information from the FWS and to clarify that the threats described for this species apply to its entire range and to clarify impacts from current livestock grazing practices.

Z-25

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

26

1 Conservation Alliance people said, but the Pima natural  
2 resources conservation district supports the comments that  
3 are being submitted by the Altar Valley Conservation  
4 District. So I will not take any more of your time with  
5 that. Thank you very much.

6 MR. HANOBIC: All right, that's all the people I  
7 have signed up to speak tonight. So if anybody else would  
8 like to get up and speak?

9 MS. OWEN: My name is Melissa Owen [spelling].  
10 And my husband I own the Sierrita Vista Ranch, which is  
11 about four and a half miles north of the border. As you  
12 can see on one of these little, really inadequate poor maps  
13 that we were provided with, here's the pipeline going right  
14 here. See that little blip right there? That's the  
15 Sierrita Vista. Just so you know.

16 The first thing I would like to say is that I  
17 have read this document; it is woefully inadequate. FERC  
18 should have been embarrassed to publish this. It is  
19 incomplete, it has inadequate analyses; it has creative  
20 math; it's contradictory; it's bad science; it's filled with  
21 unsubstantiated data.

22 I'm not going to go through all that tonight and  
23 waste everybody's time. My comments will be in my letter  
24 and also in the document that FERC will be sending.

25 But I want to clarify two points: What I'll try  
26

Z-26

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

27

PM1-31

1 to do mostly is just use wording that is in this document.  
2 The first one has to do with alternative routes. On page 3-  
3 31, we see additionally one route variation west of proposed  
4 route, mile marker 54.0. It's considered to avoid private  
5 land with active research and conservation efforts.

6 The variation is about a .8 mile longer than the  
7 proposed route, and we'd have about the same environmental  
8 impacts as the proposed route, except that it would be  
9 constructed through relatively rugged, erodible terrain  
10 immediately to the west.

11 And FERC says here: We can consider landowner  
12 desires and needs to be important factors when evaluating  
13 route variations. Thus in such cases where environmental  
14 resource impacts appear to be similar, a landowner's wishes  
15 often tip the scales regarding which route is preferred.  
16 However, it goes on to say that the landowner indicated that  
17 they are not in favor of either the proposed route or the  
18 route variation.

19 I would like FERC to understand that. We were  
20 never, ever given any notice of the route variation. The  
21 first time we saw it or heard of it was when we read the  
22 DEIS. No one ever approached us to ask our opinion.  
23 Certainly we have gone on record many times as saying we do  
24 not think that this project should go through the Altar  
25 Valley at all; that's very true. But we never were  
26

PM1-31

The route variation identified in section 3.6 was presented as part of Sierrita's Resource Report 10 (see Report section 10.6.2 and figure 10-10). The EIS describes the impacts associated with a pipeline route on this property owner's land. Section 3.6 has been updated to reflect the fact that the landowner is not in favor of either the proposed route or the route variation; however, they did indicate a preference for a route that does not cross their land.

Z-27



## PM1 – Public Meeting in Three Points, Arizona (cont'd)

28

PM1-31  
(cont'd)

1 approached about the varied route.  
2 Now, the idea is here that it would tip the  
3 scales because there might be some conservation work being  
4 done on the land. My husband and I bought our ranch about  
5 ten years ago, and since that time we have worked tirelessly  
6 to restore and enrich the land. We entered into a program  
7 with U.S. Fish and Wildlife Service to curb erosion, improve  
8 wetlands and provide additional water for wildlife. We have  
9 been the first to partner with Buenos Aires National  
10 Wildlife Refuge and the Arizona first district to establish  
11 a burn program, to restore fire as a naturally-occurring  
12 method for eradicating invasive plants.

13 From 1995 until 2003 I went both as a seasonal  
14 employee and a volunteer at the National Wildlife Refuge,  
15 and in 2002, I was named National Wildlife Refuge volunteer  
16 of the year for my work. I applied for and received a grant  
17 from Arizona Game and Fish to install a nature trail at the  
18 school in Sasabe. My husband and I built, with our hands  
19 and from the ground up, a vineyard which employs earth-  
20 friendly agricultural methods.

21 We have a ranch business plan which is based on  
22 the mission statement. The Sierrita Vista Ranch is  
23 committed to restoring degraded riparian and wetland zones,  
24 replacing woody vegetation with native grasses, and  
25 conserving open space, and sparing land from development and  
26

Z-28

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

29

1 other land use changes.

2 The land is managed for long term ecological and  
3 economic resilience, and we have donated our property to a  
4 conservation-based nonprofit in our will.

5 The company that we're speaking of, Kinder  
6 Morgan, has 82,000 miles of pipelines in the United States;  
7 5,000 miles of pipelines in Arizona. And the enterprise  
8 value is \$105 billion -- that's b as in boy, b as in beta -  
9 billion dollars. So they can't go .8 miles around our ranch  
10 where we have done this work? It's not acceptable.

11 And it's not acceptable that the variant was  
12 never shown to us, it was never discussed with us, and that  
13 it's not evaluated in this document. For this document to  
14 be complete, it must be evaluated.

15 Now we've got this big document here, we're all  
16 here tonight, all of us have taken what would say? Hundreds  
17 of hours, thousands of hours of our time when we could be  
18 with our families, we could be working on our own  
19 businesses. Haven't been to my vineyard in a month because  
20 I've been reading this document.

PM1-32 | 21 So on page 335 we find the reason for all this.  
22 The reason we're arguing about mitigation, the reason we're  
23 talking about environmental impacts, the reason we're  
24 talking about restoration, effects that may take 3 to 50  
25 years. Why is that? Because -- this is a quote -- Sierrita  
26

PM1-32 Section 3.5 has been updated to include further discussion of alternative U.S.-  
Mexico crossing locations.

Z-29

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

30

PM1-32  
(cont'd)

1 consulted with I.E.Nova and its customer, MGI Supply,  
2 Limited, and determined that the proposed crossing near  
3 Sasabe is the only viable crossing point for the project.  
4 82,000 miles of pipeline, 5,000 in answer, yet  
5 Sasabe, Arizona is the only viable crossing point. Won't  
6 work.

7 Okay, the last thing I have to say is: Every  
8 reputation of the damage that's going to be done, every  
9 analysis of what's going to happen is followed in this  
10 flawed document by a statement -- which can paraphrase as  
11 being: "Not to worry, Kinder Morgan's going to take care of  
12 it. Everything will be fine. Kinder Morgan will come in  
13 and make it fine."

14 Before this, I haven't had any personal  
15 interaction with Kinder Morgan. But I did speak with

PM1-33

16 somebody who has. His name is Brian Day, and he's the  
17 manager of Sheldon National Wildlife Refuge in Nevada. The  
18 Ruby pipeline is adjacent to the refuge, did not go on the  
19 refuge, but Sheldon National Wildlife Refuge allowed Kinder  
20 Morgan -- I believe it was El Paso at the time -- to use  
21 refuge roads.

22 I called Brian on June 24th, 2013 at 3:24 p.m. in  
23 the afternoon, and I asked him about his experiences. He  
24 started out by saying -- I only have a little more to go  
25 here -- he started out by saying that the BLM went to a  
26

PM1-33

Comment noted. However, the FERC would like to clarify the ongoing work that is occurring on the Ruby Pipeline Project. Ruby Pipeline has been filing its required quarterly construction status report to the FERC. The most recent was submitted on January 9, 2014, and is available for public review on the FERC eLibrary (<https://www.ferc.gov/docs-filing/elibrary.asp>) under Docket No. CP09-54-000. Table 2 of this quarterly report identifies the access roads where weed control actions were performed or will be further addressed based on ongoing monitoring efforts.

FERC cannot comment on restoration methods on rights-of-way that are outside of its jurisdiction. Furthermore, FERC is the lead federal agency that would oversee construction and restoration of this Project. If FERC determines that restoration is not proceeding satisfactorily, or is contacted by a landowner or land managing agency personnel with complaints regarding restoration, FERC would investigate and suggest possible remediation steps. Sierrita would be legally required to comply with any Project requirements as agreed to or conditions as included as a part of any Order issuing Certificate. If a company does not meet the conditions or regulations that apply to the Project, FERC has authority to refer the matter to its Office of Enforcement.

Z-30

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

31

PM1-33  
(cont'd)

1 considerable amount of time, trouble and expense to set up a  
2 utility corridor especially for this project, through land  
3 that they felt would be most suitable.

4 When El Paso was present with the route, they  
5 turned it down categorically and refused to use it, going  
6 through land they chose. I'm quoting from Brian Day. These  
7 are not my sentiments; this is the Manager of Sheldon  
8 National Wildlife Refuge:

9 I would never trust them to do anything they  
10 promise. You need to get everything in writing,  
11 and even then you're not safe. I would be much,  
12 much tougher in my negotiations if I had it to do  
13 now. El Paso promised to do two years of  
14 invasive weed control and have done none. I  
15 asked him if he saw any of the methods that they  
16 promised here, regarding invasive weed control --  
17 for example, washing vehicles off with water or  
18 compressed air, or if you saw anyone who was  
19 monitoring those protocols then he just sounded  
20 surprised: "Oh, no, there was nothing like  
21 that." I asked him if he expected that they  
22 would come back to do any weed control or  
23 revegetation, and his comment was, "As soon as  
24 they finished, they disbanded and went home.  
25 You'll never see them again."

26

Z-31

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

32

PM1-33  
(cont'd)

1 As for his prediction for the Altar Valley, he said: "It  
2 will be a big scar and it will be there for a very, very  
3 long time." And I asked him if he had any advice to give us  
4 here, and he said, "If I had this to do over again, I would  
5 say, 'Just give us the money and let us do the restoration,  
6 because they are not going to do it.'"

7 I don't really have anything else to say tonight,  
8 except that my husband and I and the Sierrita Vista Ranch  
9 will fight this project until we have no resources left.  
10 And then if I have to go stand in front of the bulldozers,  
11 I'll do it, but I will save my ranch.

12 MR. HANOBIC: Thank you.

13 Anybody else like to speak tonight?

14 @ MR. MAGRUDER: Good evening. My name is Marshall  
15 MaGruder [spelling]. I do not live in Altar Valley; I live  
16 in Santa Cruz Valley, and I'm coming from a slightly

PM1-34

17 different viewpoint. I would like the EIS to be properly  
18 put together so it compares alternatives. It failed. It is  
19 a dismal failure. By not looking at more than one crossing  
20 point at the border.

21 That point, as read, the quote a few minutes ago,  
22 was made by MCI. That's the same company that's working the  
23 project in the United States, and is the same company that's  
24 working the project in Mexico. It shook hands with itself.

PM1-35

25 Is that the way national decisions are made in  
26

PM1-34

See responses to comments PM1-4, PM1-9, and PM1-10. We also note that Sierrita is a subsidiary of Kinder Morgan Operating L.P., whereas IENova is an affiliate of Semptra Energy. Kinder Morgan and Semptra Energy are not the same company. For further clarification, Semptra Energy will own and operate the Sásabe-Guaymas Pipeline in Mexico. MGI Supply, Ltd. is the customer in Mexico that will transport natural gas from the U.S.-Mexico border to the Sásabe-Guaymas Pipeline. MGI Supply, Ltd. will sell this gas to the CFE, who will rely on the gas supplies to fuel electric generation facilities.

PM1-35

As discussed in section 1.2.1, authorization under section 3 of the NGA is necessary for the siting, construction, connection, operation, and maintenance of facilities to import or export natural gas. In addition, pursuant to Executive Order 10485, dated September 3, 1953 (18 FR 5397 [1953]), as amended by Executive Order 12038, dated February 3, 1978 (43 FR 4957 [1978]), a Presidential Permit also must be obtained for the portion of an import or export facility crossing one of the U.S. international borders. In Delegation Order No. 00-004.00A, effective May 16, 2006, the Secretary of the DOE renewed the delegation of authority to the Commission to grant or deny authorization under section 3 of the NGA and, if applicable, a Presidential Permit for the siting, construction, connection, operation, and maintenance of natural gas import and export facilities. The Commission has no authority to approve or disapprove applications to import or export the natural gas commodity itself. The Secretary of Energy has delegated such authority to the DOE's Assistant Secretary for Fossil Energy.

Z-32

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

33

PM1-35  
(cont'd)

1 this country? Inside one company? That's not fair, that's  
2 not right. And that should not dictate where that crossing  
3 point occurs. The presidential permit process requires that  
4 the organizational relationships on both sides of the border  
5 be put together in a chart. I did not see that in the Draft  
6 EIS.

PM1-36

7 Because these companies, you have to go across  
8 the border. The border is transparent when it comes to the  
9 environment. The environment doesn't know the difference.  
10 And so you need to look at the studies that have been done  
11 in Mexico so that you can compare their analysis one foot  
12 away from your analysis, should they match, should they be  
13 the same? If you don't, you don't have an interface, an  
14 interconnection.

15 And Mexican environmental laws are fairly  
16 stringent -- not always followed, but they are very  
17 stringent laws, and you should demand that information. And  
18 that information, when I read the executive order for  
19 presidential permit, is required; and you don't have it, and  
20 it's not presented.

PM1-37

21 Now let me give an administrative comment. Today  
22 is the 12th, you're having your first meeting on a Draft  
23 EIS. Saturday you're having a second meeting. The comments  
24 are due Monday. How can anybody go to these meetings and  
25 make a comment and get it mailed to your office by Monday?

26

PM1-36 Section 4.15 addresses transboundary effects of the Project on Mexico. The FERC has no regulatory authority in Mexico and, therefore, cannot control what mitigation measures the Mexican facilities would or would not adopt.

PM1-37 The commenter's statement regarding the timing of draft EIS comment meeting is noted. As FERC staff clarified at the comment meeting and also noted in the Notice of Availability for the draft EIS, comments do not need to be made both in writing and verbally. The comment meetings offer a forum to verbally state comments; formal comment meetings are not a prerequisite for submitting comments but are an additional method of comment submittal that FERC typically uses for larger projects. Comment meetings held later in the comment period give the stakeholder the appropriate time to read the document to formulate comments and understand the materials presented within the draft EIS. A draft EIS comment meeting should not be interpreted as an "introduction to the project" or a meeting to disseminate project design information about a proposal.

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

34

PM1-37  
(cont'd) 1 Impossible. This meeting should have been a month ago, not  
2 two days or two working days before you submit comments on  
3 an EIS.

PM1-38 4 Secondly, administrative comment. In Section 5  
5 where you have your remedial stuff, you have 20-some odd  
6 paragraphs of comments. About a third to half of those are:  
7 "Kinder Morgan will submit the information prior to the  
8 completion of the Draft Environmental Impact Statement  
9 review period." How can we make comments on all of those  
10 documents? They're not available.

11 I think that anything that's submitted by Kinder  
12 Morgan in accordance with Section 5 of the EIS should as a  
13 minimum have 30 days to allow the public to review them,  
14 because they are part of EIS, and we can't review them.

PM1-39 15 The transcript. Wonderful we're making  
16 transcripts. Do you think we'll be able to read those  
17 transcripts when we make our comments for the Draft  
18 Environmental Impact Statement? No. We should be able to  
19 review those trips and make our comments; again, about 30  
20 days from now, because then we can read them and understand  
21 them.

22 So the timing is cockeyed, along with other  
23 things in this program.

24 The cross-border issue is the key issue in this  
25 whole problem, and it is poorly addressed. As I said, an  
26

PM1-38 The FERC continued to accept comments on the draft EIS and any other materials placed into the record past the end date of the comment period and up until the point of publication of the final EIS.

PM1-39 The draft EIS comment meeting transcripts were made available on FERC's eLibrary on January 8, 2014. Also see responses to comments PM1-37 and PM1-38.

Z-34



## PM1 – Public Meeting in Three Points, Arizona (cont'd)

35

PM1-40 1 agreement between two countries. But more importantly, you  
2 look at several alternatives and you had them all crossing  
3 at the same place. Those alternatives were the most  
4 illogical and dumb things I've ever seen your organization  
5 do, because they are dumb. Nobody could run a pipeline on  
6 the border of this country, in Southern Arizona. It's  
7 physically impossible.

8 The Border Patrol would spend a billion dollars  
9 to put in a pipeline on the border, because they'd end up  
10 with a road. It's impossible to put a road down there.  
11 Has anyone who did this environmental impact statement  
12 toured the border? In particular, where you sit, from  
13 Lukeville, from Naco, from Nogales, all leading a pipeline  
14 to Sasabe. That is wrong. It's impossible.

15 So you have used a biased approach in your  
16 alternative analysis that precluded any possible  
17 consideration of any other alternative than Sasabe. And  
18 I'll agree with your comment: Yes, it is environmentally  
19 challenging, and correctly impossible. But you shouldn't

PM1-41 20 have gone through a wildlife, a national wildlife area; you  
21 shouldn't have gone through a wilderness area. You know you  
22 can't put a pipeline in a wilderness area, but you have it  
23 through the Pajarita Wilderness Area.

24 And so why would you even consider an alternative  
25 that goes through a national wilderness area in the southern  
26

PM1-40 See responses to comments PM1-4, PM1-6, and PM1-9.

PM1-41 The commenter's statement regarding alternative routes and impact on environmentally sensitive areas is considered in our analysis of these alternatives.

Z-35

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

36

PM1-41  
(cont'd)  
PM1-42

1 end of the Coronado National Forest? Nogales is an  
2 interesting issue, because the City of Nogales, Arizona is  
3 less than 30,000 people. The City of Nogales-Sonora is over  
4 300,000 people, expected to be possibly a million people in  
5 seven to ten years. It is a very dynamic city; it's  
6 building a community for 100,000 to the east of the city  
7 right now, with American-style houses, sidewalks -- you'll  
8 think you're in the United States.

9 But guess what? There's no natural gas in  
10 Nogales-Sonora. They burn wood. They use diesel for  
11 backup. There's no electricity generated in Nogales-Sonora  
12 using natural gas, because there is a trickle of natural gas  
13 that gets into Nogales-Sonora through the existing  
14 presidential permit in Nogales, Arizona to Nogales of the  
15 north. That was one reason I suggested using two routes in  
16 my 12 April of this year letter, down the east and west side  
17 of Santa Cruz Valley. Why? you already have a right-of-way.  
18 You already have done the environmental damage. You already  
19 have a place that, as you said in the EIS, the first choice  
20 is to use a place that's been used before. The last is to  
21 go to a virgin place that's never had a pipeline.

22 The pipelines that exist in Nogales, Arizona  
23 cannot sustain our present Nogales, Arizona natural gas  
24 capabilities. We cannot light off our emergency generators  
25 in Nogales for electricity, because we don't have enough  
26

PM1-42

See responses to comments PM1-4, PM1-6, and PM1-9. We further note that providing natural gas to the City of Nogales is outside the scope of this Project and environmental analysis, and that it would not meet the Project objective; however, the FERC would evaluate such an application if and when one is put before it.

Z-36

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

37

PM1-42  
(cont'd)

1 natural gas. They built an international wastewater  
2 treatment plant, \$60 million upgrade. As you know,  
3 wastewater or sewage water absolutely requires electricity  
4 24 hours or it's all going to back up in everybody's house,  
5 and we've got 14.2 million gallons a day of sewage from  
6 Nogales-Sonora that's also processed in that same plant in  
7 Rio Rico.

8 Without electricity, we've got a serious problem,  
9 health problem. They wanted to use natural gas. The  
10 International Border Water Commission wanted to use natural  
11 gas, because they're the ones that manage that plant, or  
12 they fund that plant. They told me they were not allowed --  
13 "Don't even think about natural gas for your backup  
14 generators; use diesel."

15 Well, we are a Clean Air Act non-attainment area  
16 in Nogales, Arizona. We will always be one because of the  
17 prevailing wind from the South, because they burn wood, they  
18 use diesel. And as you know, the transportation industry is  
19 slowly moving towards natural gas. Most city buses in the  
20 United States use natural gas.

21 So that's the future, some people think, maybe in  
22 automobile travel, which would again reduce in particular  
23 the PM 10 and the PM 2.5 particulate matter. We are at  
24 non-attainment in 10, PM 10, 10 microns, but the PM 2.5 is  
25 especially dangerous because it sticks to your lungs and is

26

Z-37

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

38

PM1-42  
(cont'd)

1 a carcinogen. And we were having a transmission line,  
2 electric transmission line put in, and the Arizona  
3 Department of Environmental Quality required dust control.  
4 Just on the trucks putting in an electric line, so that we  
5 would not become the first city in the country with non-  
6 attainment for PM 2.5. We're very close to that right now.

7 So we have a serious air problem, and it's our  
8 health. It's the only life we have. And by allowing  
9 natural gas to get into Nogales -- and we use the word  
10 "Ambos-Nogales"; both Nogales -- get into Ambos-Nogales, you  
11 will help the health of 300,000-plus people.

12 Also, our economic development is stifled because  
13 we don't have natural gas. Many businesses can use that,  
14 and the shortage of electricity. We need natural gas on the  
15 United States side. There are well over 100 maquiladoras,  
16 or industrial plants in Nogales-Sonora that could use  
17 natural gas. And they don't use it now, because it's not  
18 there. They have diesel. And there's diesel all over the  
19 place, and that's not good.

20 So economic development is stifled, our air is  
21 polluted, and we can't grow. We would like to grow. But  
22 right now we have 20.5 percent unemployment in Santa Cruz  
23 County. Where you live, do you have 20.5 percent  
24 unemployment? Do you have 34 percent of your people in your  
25 county on Medicaid? Do you have 85 percent of your county

26

Z-38

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

39

PM1-42  
(cont'd)

1 that are Hispanic? Where Spanish isn't the number one  
2 language spoken. And your average wage is about \$20,000 per  
3 year for a family. We're a very low income neighbor.

4 We can use this line, either one; east or west,  
5 but I can't make a recommendation to my Board of Supervisors  
6 or to the City Council in Nogales until I have an  
7 environmental impact statement that does the proper  
8 analysis. You haven't done the analysis. You failed me. I  
9 wrote a letter, I asked to look at it, and you didn't do it.  
10 And until that's done, you said, then we have to go with a  
11 no-alternative approach, because that's the only other  
12 option.

13 I think the two alternatives through Santa Cruz  
14 Valley, and maybe some of the others, but those two are  
15 extremely viable.

16 Let's talk about the west one. The west one is  
17 16.4 miles in a national energy corridor inside the U.S.  
18 national forest, Coronado National Forest. It's an approved  
19 energy corridor. It's where your present line goes. You  
20 don't have an EIS problem on that; it's already been done,  
21 through the programmatic EIS required for Article 356 of the  
22 Energy Policy Act of 2005.

23 So that's there, that's a quarter of the  
24 distance. Now when you get into Pima County and get a  
25 little bit north of a ranch or so, you then go between  
26

Z-39

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

40

PM1-42  
(cont'd)

1 mines, your present line. It's between mines that have 800-  
2 foot tall tailings. There's no environment there that can  
3 be improved and can be helped. It's destroyed by the mines.  
4 Those mines are 11, 12 miles long, going north-south. The  
5 lines that go from El Paso that connect to Nogales are  
6 shorter than the 60 miles you need here. The distance from  
7 Nogales-Sonora to Puerto Libertad, the first delivery point,  
8 is the same as the detect from Sasabe to Puerto Libertad.

PM1-43

9 So in Mexico, it's the same distance, either  
10 direction. You see it on the map. And more importantly, in  
11 Mexico it goes along national Route 15, like a federal  
12 highway. There is a dirt road south of Sasabe that's going  
13 to become an international traveling way for smugglers.

14 You only talk about smugglers of drugs and  
15 people. You missed smugglers that go the other direction  
16 that are extremely dangerous; they're the ones that carry  
17 the money back. And those smugglers no one wants to meet.  
18 Because they don't care; they're carrying millions of  
19 dollars on each one of them, and they're taking it back, and  
20 they're extremely dangerous.

21 And we just caught a bunch of Chinese and  
22 Pakistanis, and they come from all over the world in Santa  
23 Cruz County. Our border patrol -- and I'm a member of the  
24 Border Patrol Citizens Advisory Board, and I meet monthly  
25 with the agent in charge of the Nogales Border Patrol. She  
26

PM1-43

Section 4.9 has been updated to acknowledge the existence of smuggler's to Mexico. Detection and surveillance technology detects both southbound and northbound activity. Based on consultations with the U.S. Border Patrol, it does not interdict southbound weapon and currency couriers, but these types of activities usually involve conveyances and occur at official ports of departures. The U.S. Border Patrol further clarified that if they do occur between the ports of departure, they usually occur in close proximity to densely populated areas.

The FERC has no regulatory authority in Mexico and, therefore, cannot control how other nations respond to illegal activities.

Z-40

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

41

1 has 750 border patrol people on her staff in one county.  
2 Counting the Drug Enforcement agency and the other three  
3 letter agencies that all work in my county, we have over a  
4 thousand law enforcement personnel.

5 How many law enforcement personnel are permanent  
6 at Sasabe? Not the same. It's a different ball game.

PM1-44 7 When I've talked to my Border Patrol people about  
8 using these gas lines, they say 'We've got that monitored.  
9 We're not worried about it. We can handle replacing that  
10 line and putting in a new one.' Because they have sensors  
11 up, they have years of experience, they know where they  
12 come, and I'm not a NIMBY. I can look out my window and see  
13 that gas line that's on the west side, so I know it's there.

14 And I'm saying, that's what I want you to do, is  
15 to at least do the environmental impact statement properly  
16 so that I can tell my Board of Supervisors and my City of  
17 Nogales mayor and city council what is best for them.  
18 Because they want -- and they have both written you letters  
19 -- saying they want this evaluation done.

20 Also, my state representatives had. Now, our  
21 state senate president's son works for Kinder Morgan, and he  
22 wrote you a letter. He actually wrote you two letters  
23 pushing for this. I think that's a little shaky.

PM1-45 24 Social, economic, and environmental justice.  
25 Again, unsatisfactory sections in your EIS. They should be

26

PM1-44 See responses to comments PM1-4, PM1-6, PM1-9, and PM1-41.

PM1-45 Table 4.10.7-2 has been added to the EIS to reflect census tract data.

The statement in the EIS reflects the approximate distance between from the Project start point and Tucson, not the distance between Tucson and Three Points.

Census data are unavailable for the Town of Sasabe. However, section 4.10.1 has been updated to reflect the noted population of Sasabe, Arizona.

It is unclear how the commenter arrived at 67 percent of the population being Hispanic. The information provided for Pima County includes the City of Tucson, Three Points, and Arivaca.

Regarding environmental justice, section 4.10.7 provides our analysis consistent with FERC policy and regulations.

Z-41

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

42

PM1-45  
(cont'd)

1 done at the census population data level. Not a Pima  
2 County. Pima County is a gigantic county; it goes hundreds  
3 of miles to the west. Half of it is -- more than half of it  
4 is a part of the Indian nation. It's not compatible to  
5 comparing.

6 The City of Tucson is not ten miles from Three  
7 Points; it's about 20 miles from Three Points. I just drove  
8 it. It's not next door. But the City of Tucson is not what  
9 this location is we are here; this isn't the City of Tucson,  
10 this is Three Points. This is different. Sasabe, 11  
11 people, their population last census. That's not very many  
12 people. Then you compare Arajaka {ph}. That's another  
13 community, but it's comparable and is important.

14 But that's all we have over here. There are not  
15 very many people. So you need to look at those income  
16 levels and those people. The analyst who said that  
17 environmental justice doesn't exist because less than 50  
18 percent of the people are from one race or one ethnic group  
19 is wrong. When you add up the numbers, it's 67 percent of  
20 the people are Hispanic or Latino. So 67 percent sounds to  
21 me more than 50. So you just can't blow off environmental  
22 justice.

23 The social, economic factors, I tried to mention  
24 some of them. Unemployment, family size, ethnicity of the  
25 families, what language they speak at home, and where they

26

Z-42



## PM1 – Public Meeting in Three Points, Arizona (cont'd)

43

PM1-45  
(cont'd)

1 live is important. And that's just not in your  
2 environmental impact statement. And it's in most of the  
3 ones I've ever read before.

4 And for us in Santa Cruz County, generally you  
5 worry about environmental justice hurting people. In this  
6 case, it's environmental justice helping people. You  
7 normally don't analyze it in that direction; it's normally  
8 done in the other direction. And that's what you sort of  
9 did, in a paragraph this long, for the route you used here.

PM1-46

10 Jobs. There are no permanent jobs with this  
11 program; and that's in your EIS. And a little while ago, we  
12 were talking about a lot of jobs and helping the  
13 neighborhood? Well, there are 300 temporary jobs, people  
14 that are going to be brought in. They're leaving when they  
15 finish, and as someone just said a little while ago, they

PM1-47

16 leave. How can we guarantee that somebody is going to  
17 restore that gas line, if those workers all go?

PM1-48

18 You talk about taxes, how the taxes -- you've got  
19 a sales tax and all this stuff. Sales tax, okay, they're  
20 going to pay some sales tax, the people that come in from  
21 out of town, they're going to pay some sales tax. But you  
22 know, there are over a million people in Tucson; it's not  
23 going to have a major impact, 300 people. But they can pay  
24 some sales tax; yes, it will have a little bit on the  
25 environment. There's also property tax and other types of

26

PM1-46

The commenter's statement regarding permanent jobs is noted.

PM1-47

Sierrita's *Reclamation Plan* and *Post-Construction Vegetation Monitoring Document* identify the procedures that would be used to restore the right-of-way to pre-construction conditions.

Sierrita would be required to submit weekly reports documenting its construction and restoration activities. Further, a third-party compliance monitor under the direction of the FERC would be onsite daily during construction documenting Sierrita's construction and restoration through about the time the pipeline would be placed into service. FERC staff would periodically inspect the Project area during construction and restoration to ensure restoration occurs and, if any issues arise, that they are addressed. The third-party monitors would also consult with FERC staff as needed during construction and restoration.

Also see response to comment PM1-8.

PM1-48

The commenter's statement regarding distribution of taxes is noted. Section 4.10.6 has been updated to show anticipated numbers as reported by Pima County.

Z-43

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

44

PM1-48  
(cont'd)

1 taxes that go on a gas line.  
2 But do you know where it goes? It doesn't go to  
3 Pima County. It goes to the state, to our wonderful Arizona  
4 general fund. And our wonderful legislature, which is  
5 probably close to the worst in the nation, will take that  
6 money and not ever let it come back to where it came from.  
7 The rural counties in this state are all hurting because it  
8 stays where 65 percent of the people live in Arizona, in  
9 Phoenix; it doesn't come out. And it's just a big hole.  
10 All our tax money goes there and they'll give us 40 percent  
11 back. Check the numbers, and you should do that.

PM1-49

12 We talked about ranchers a little while ago. You  
13 know what? Ranchers live by the environment. Ranchers are  
14 the environment. If ranchers don't take care of the  
15 environment, they're out of business, plain and simple.  
16 So yes, some places have been overgrazed, but  
17 today's ranchers are not the ranchers of 1890 when there  
18 were a million and a half cattle in these valleys. They ate  
19 everything. They caused major problems. Those aren't the  
20 ranchers today.

PM1-50

21 You have an undiscovered cultural resources  
22 report. What are you going to do with it? Well, it's not  
23 in the environmental impact statement. And I can guarantee  
24 you that this valley and Santa Cruz Valley and every valley  
25 in Arizona is filled with ancient, archaic, archeological  
26

PM1-49

See response to comment PM1-7.

PM1-50

As discussed in section 4.11.3, Sierrita's Unanticipated Discovery Plan provides guidelines to be used in the event that previously undocumented cultural resources or human remains are discovered during the course of construction. A copy of Sierrita's Unanticipated Discovery Plan is available for public viewing on the FERC website at [www.ferc.gov](http://www.ferc.gov). It was submitted on July 11, 2013, and is available for public review on the FERC eLibrary (<https://www.ferc.gov/docs-filing/elibrary.asp>) under Docket No. CP13-73-000.

Z-44

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

45

PM1-50 | 1 and cultural resources.  
(cont'd)

PM1-51 | 2 I mentioned in - our last time in one of the  
3 meetings, and in my comments on the scoping that El Paso  
4 Natural Gas wrote an excellent report in the early Fifties,  
5 evaluating the archaeological sites that they explored and  
6 excavated and analyzed the data, including all the pottery  
7 shards and all the number analysis that you do on a  
8 scientific, archaeological study for every one they found.  
9 I don't see that as a requirement in here. I don't see a  
10 report that's required when the Native American groups will  
11 sign onto your cultural preservation requirements. I don't  
12 see that report mentioned here.

PM1-52 | 13 You talk about the police will take care of law  
14 enforcement. There are no police in this part of the  
15 county; they're all deputies, sheriff's deputies -- there  
16 are no policemen; policemen live in cities. This isn't the  
17 city.

PM1-53 | 18 Last thing is eminent domain. In the State of  
19 Arizona, the eminent domain laws read that if a landowner  
20 does not -- and I'm not a lawyer, so I can't make a legal  
21 opinion. So it's my understanding. That if a landowner  
22 objects to -- and eminent domain is called for and it ends  
23 up going to court, the decision is made by the landowner's  
24 peers. It's very important that your peers make the  
25 decision when it comes for an eminent domain. And for that,  
26

PM1-51 As discussed in section 4.11.1, we require that all cultural resources information (including survey reports) that contains location, character, and ownership information be filed with the FERC as privileged and confidential, and that it not be released as public information. This requirement is to protect sensitive cultural resources from being damaged or disturbed. This documentation is sent to federally recognized Indian tribes for their review and comment. The FERC is continuing its consultations regarding Project impacts on cultural resources.

PM1-52 Text references to "police" have been changed to "law enforcement" in the final EIS.

PM1-53 The commenter's statement regarding eminent domain is noted.

Z-45

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

46

PM1-53  
(cont'd)

1 most people will solve the problem before it gets to that  
2 case.  
3 But there appears to be some strong opposition,  
4 not only from the landowners in Altar Valley, but there's  
5 Pima County, there's the Native American groups, there's my  
6 county, which would like to have something else done;  
7 there's a variety of environmental groups that are not in  
8 favor of this project. I don't see much in the docket that  
9 is in favor of the project. Why? Because it has no

PM1-54

10 benefits using the alternative selected. You only have one  
11 alternative other than no alternative; you don't have even  
12 two. You did away with the other one that was sort of like  
13 the first one. As a matter of fact, less than half of it  
14 was different. So I would call that not even an  
15 alternative, just a little stick off from it.

16 You need something so that the decision makers  
17 can make a decision. Because technically, no decision should  
18 be made on a project until the Final Environmental Impact  
19 Statement has been released. And you might even have a  
20 review period after that; I don't know what FERC's rules  
21 are, but the Forest Service has a 45-day review period after  
22 a record of decision is issued.

23 It appears in this case the decision was made  
24 before we started, and that's not legal and that's not  
25 right. Thank you.

26

PM1-54

See responses to comments PM1-4, PM1-9, and PM1-10.

As stated in section 1.3 of the final EIS, the Commission can make a decision on the Project concurrently with the issuance of the final EIS. The Commission has a 30-day rehearing period following issuance of a Certificate.

Z-46

## PM1 – Public Meeting in Three Points, Arizona (cont'd)

47

1 MR. HANOBIC: Thank you.

2 Anybody else that would like to speak tonight?

3 I do want to address one comment that I heard  
4 tonight, and that is the fact that Sierrita still has  
5 outstanding information to submit to the FERC.

6 Any of those what we call conditions or  
7 'environmental recommendations' are technically what they're  
8 called in the EIS; it's Section 5, it's all the boldfaced  
9 type within the document.

10 So Sierrita has something yet to submit by the  
11 end of the Draft EIS comment period, so Monday. Any of  
12 those plans, people can comment on. The comment period for  
13 the Draft EIS ends on Monday, so we're seeking your comments  
14 on the Draft EIS. Anything that's filed into the record  
15 after that, any of those plans, you can still provide us  
16 comments. I ask that you do it sooner than later, because  
17 we will start preparing the Final Environmental Impact  
18 Statement after we receive everybody's comments and the  
19 information from Sierrita, but you do have an opportunity to  
20 review them and provide us comments. I don't want you to  
21 think you don't have that opportunity, because I know you  
22 had said there were some things that we were asking them to  
23 address and update. So.

24 AUDIENCE: It's Christmas. I'm going to be out  
25 of town. I am not going to be near a computer. So how can  
26

Z-47

**PM1 – Public Meeting in Three Points, Arizona (cont'd)**

48

1 I look at theirs? They should have done it now, right?

2 MR. HANOBIC: They have to be it by the end of

3 the comment period; that's how it works with our process.

4 So once they file -- like I said, I encourage you to do it

5 sooner; I'm not saying you have to do it in the next week or

6 two, three weeks. I'd say within 30 days, try and get

7 comments in if you can, once they file it.

8 All right. The formal part of the meeting will

9 now close. Within the FERC website, [www.FERC.org](http://www.FERC.org) there is a

10 link called eLibrary. If you type in the docket number for

11 this project, CP13-73, you can use eLibrary to gain access

12 to everything on the record concerning this project as well

13 as filings and information submitted by Sierrita.

14 On behalf of the FERC, I want to thank you for

15 coming here tonight. Let the record show that the meeting

16 concluded at 7 p.m. Thank you.

17 (Whereupon, at 7 p.m., the public comment meeting

18 concluded.)

19

20

21

22

23

24

25

Z-48

# PUBLIC MEETINGS

## PM2 – Public Meeting in Sasabe, Arizona

1

1 UNITED STATES OF AMERICA  
2 FEDERAL ENERGY REGULATORY COMMISSION

3  
4 - - - - - X  
5 Sierrita Gas Pipeline, LLC. Docket Nos. CP13-74-000  
6 - - - - - X

7  
8 SIERRITA PIPELINE PROJECT  
9  
10 San Fernando Elementary School  
11 One Schoolhouse Drive  
12 Sasabe, Arizona 85633  
13 Saturday, December 14, 2013

14  
15 The public comment meeting, pursuant to notice, convened  
16 at 10:10 a.m., before a Staff Panel:

17 KELLEY MUNOZ, Environmental Project Manager  
18 DAVID HANOBIC, Environmental Project Manager  
19 KIM JESSEN, Merjent  
20 KRISTEN LENZ, Merjent

21  
22  
23  
24  
25  
26

Z-49

**PM2 – Public Meeting in Sasabe, Arizona (cont’d)**

1	LIST OF PUBLIC SPEAKERS	
2	Steve Bland	9
3	Jacqueline Bland	12
4	Andrea Dalessandro, State Representative	15
5	Robert Teran, Operating Engineers	18
6	Mary Kasulaitis	20
7	Roger McManus	21
8	Charlie Miller (as read by Mary)	28
9	Mary Miller	36
10	Melissa Owen, Sierrita Vista Ranch	40
11	Linda Mayro, Pima County	42
12	Troy McDaniel	44
13	Tracy Banker-Murtadza	44
14	Daniel Tygret	50
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## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

3

### PROCEEDINGS

MS. MUNOZ: Good morning. What a gorgeous day here in Sasabe. Thank you for coming on a Saturday. We appreciate your time to come here and listen to us, we appreciate your comments, we appreciate the level of effort that you've put forth since we got here about a year ago last summer.

I'm going to go ahead and get started with the formal process of the meeting.

On behalf of the Federal Energy Regulatory Commission, I want to welcome all of you to the public comment meeting on the Draft Environmental Impact Statement for the Sierrita Pipeline Project.

Let the record show that the DEIS comment meeting began at 10:10 a.m. on December 14, 2013. My name is Kelly Munoz, and I'm an Environmental Project Manager with the Office of Energy Projects, which is a division of FERC. To my left is David Hanobic, Eric Howard, you are here somewhere, and we have David Swearingen, also with FERC. We also have John Muehlhausen, Kim Jessen and Kristen Lenz assisting FERC Staff in the environmental analysis of the project.

I'd also like to mention that we have representatives from Sierrita also here with us today. They have maps and they will be here to answer any questions

I-51

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

4

1 after the meeting.

2 The U.S. Fish and Wildlife Service, Arizona  
3 Ecological Services Office, the Buenos Aires National  
4 Wildlife Refuge, U.S. Customs and Border Protection, and  
5 Arizona Game and Fish Department are participating as  
6 cooperating agencies in the preparation of this EIS. I would  
7 like to thank all our cooperating agencies for all their  
8 effort that they put forward in the analysis of the project.

9 You will note that we've arranged for a court  
10 reporter to transcribe this meeting, so we will have an  
11 accurate record of the meeting. If you'd like to have a  
12 copy of the transcript, you may make arrangements with the  
13 court reporter after the meeting. We also have someone here  
14 to interpret English into Spanish, if you would like to use  
15 her services. Please feel free to pick up a headset to hear  
16 the meeting in Spanish.

17 (Remarks in Spanish)

18 In February 2013, Sierrita Pipeline, LLC filed  
19 applications under Section 3 and 7 of the Natural Gas Act.  
20 The Sierrita Pipeline Project would consist of the  
21 installation of approximately 60.5 miles of 36-inch diameter  
22 natural gas pipeline that would link El Paso's existing  
23 pipeline system near Tucson to the U.S.-Mexican border near  
24 the town of Sasabe, Arizona.

25 The primary purpose of this meeting is to give  
26

Z-52

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

5

1 you the opportunity to provide specific comments on the  
2 Draft EIS prepared by the FERC staff on the project. It  
3 will help us most if your comments are as specific as  
4 possible regarding the proposed project of the Draft EIS.

5 Again, I would like to clarify that this is a  
6 project proposed by Sierrita; it is not proposed by the  
7 FERC. Rather, the FEC is the federal agency responsible for  
8 evaluating the application to construct and operate  
9 interstate natural gas pipeline facilities and for  
10 evaluating natural gas facilities at the border between the  
11 United States and Mexico.

12 The FERC, therefore, is not an advocate of the  
13 project. Instead, as we've emphasized throughout this  
14 process, the FERC is an advocate for the environmental  
15 review process.

16 During our review of the project, we assembled  
17 information from a variety of sources, including Sierrita,  
18 you the public, other state, local and federal agencies, and  
19 our own independent analysis and field work. We analyzed  
20 the information and prepared a Draft environmental impact  
21 statement that was distributed to the public for comment.

22 A Notice of Availability of the Draft  
23 Environmental Impact Statement was issued for this project  
24 on October 25, 2013. We are near the end of the 45-day  
25 comment period of the Draft EIS. The comment period ends  
26

Z-53

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

6

1 this Monday, December 16, 2013. All comments received,  
2 written or spoken, will be addressed in the final EIS.

3 I encourage you, if you plan to submit comments  
4 and have not, please do so today here either verbally during  
5 the comment period or comment portion of our meeting, or in  
6 writing using one of the forms in the back of the room. You  
7 may also submit comments using the procedures outlined in  
8 the Notice of Availability included in the DEIS, which  
9 includes instructions of how to submit your comments  
10 electronically.

11 Your comments will be considered with equal  
12 weight regardless of whether they are provided verbally  
13 during the comment portion of the meeting, or submitted in  
14 writing.

15 If you received a copy of the DEIS, you will  
16 automatically receive a copy of the Final EIS. If you did  
17 not get a copy of the draft and would like to get a copy of  
18 the final, please sign the attendance list at the back of  
19 the room and provide your name and address, and we'll make  
20 sure you get a copy of the final EIS.

21 I would like to state that neither the draft or  
22 the final EIS are decision-making documents. Let me be  
23 clear that once they are issued, it is not determined  
24 whether the project is approved or not.

25 I also want to differentiate between the roles of  
26

Z-54

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

7

1 two distinct FERC groups; the Commission and the  
2 Environmental Staff. David, Eric, and Dave and I are part  
3 of the FERC Environmental Staff, and we will oversee the  
4 preparation of the EIS for the project. We do not determine  
5 whether or not to approve the project. Instead, the FERC  
6 Commission consists of five presidentially-appointed  
7 commissioners who are responsible for making a determination  
8 on whether to issue a presidential permit and Certificate of  
9 Public Convenience and Necessity to Sierrita.

10 As I mentioned earlier, this EIS is not a  
11 decision-making document, but it does assist the Commission  
12 in determining whether or not to approve the project. The  
13 Commission will consider the environmental information from  
14 the EIS, public comments, as well as a host of non-  
15 environmental such as engineering, markets, rates in making  
16 its decision to approve or deny Sierrita's request for  
17 presidential permit and certificate.

18 There is no review of FERC decisions by the  
19 president or Congress, thus maintaining FERC's role as an  
20 independent regulatory agency, and providing for fair and  
21 unbiased decisions. Only after taking the environmental and  
22 non-environmental factors into consideration will the  
23 Commission make its final decision on whether or not to  
24 approve the project.

25 If the Commission votes to approve the project,  
26

Z-55

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

8

1 and the presidential permit and Certificate of Public  
2 Convenience and Necessity are issued, Sierrita will be  
3 required to meet certain conditions outlined in the  
4 certificate.

5 FERC Environmental Staff would monitor the  
6 project through construction and restoration, performing  
7 daily, onsite inspections to document environmental  
8 compliance with applicable laws and regulations. Sierrita's  
9 proposed plans in mitigation and the additional conditions  
10 in the FERC certificate.

11 That's my review on the FERC role. Now we move  
12 into the important part of the meeting where we will hear  
13 your comments from audience members. If you would rather  
14 not speak today or don't get to say everything you wanted,  
15 you may hand in written comments today, using the form found  
16 at the table at the back of the room; or send them in to the  
17 Secretary of the Commission by following procedures outlined  
18 in the Notice of Availability in the DEIS. Either way,  
19 your comments will be considered with equal weight.

20 As I said, this meeting is being recorded by a  
21 court reporter so all your comments will be transcribed and  
22 put into the public record. I ask that each speaker first  
23 identify themselves, and if appropriate the agency or group  
24 you're representing. Also, please spell your name for the  
25 record and speak clearly into the microphone, and I ask that  
26

Z-56

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

9

1       you please show respect for anybody speaking.

2               I believe we're now ready to call our first  
3       speaker. And I apologize if I butcher your name.

4               Mr. Steve Bland.

5               MR. BLAND: Yes, that's me.

6               MS. MUNOZ: Okay. Do you want to come to the  
7       front, sir? We have a microphone.

PM2-1 | 8               MR. BLAND: So I'm Steve Bland, my family used to  
9       own the Sierrita Vista Ranch. I guess I don't really have a  
10      lot to say, but my main concern was what is the scope of  
11      your guys' responsibility? So if a pipeline company comes  
12      to you, then your only -- I mean, like what's the basis for  
13      your -- what's the scope of what you guys do?

14              If I'm a pipeline company, I come to you, I say  
15      "I want to build a pipeline." And you evaluate what I want  
16      to do, or do you evaluate other possibilities?

17              MS. MUNOZ: I evaluate what you put before me. I  
18      don't design the project; we don't change the beginning or  
19      the endpoint; we look to see what you bring before us -- you  
20      have to meet the minimum filing requirements of our  
21      regulations, and we work to align the project to minimize  
22      the human and environmental impacts.

23              But you are responsible for designing that  
24      project, and that's what's put before this point. And point  
25      B is what you've provided and we are --

26

PM2-1       See response to comment PM1-4.

Z-57

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

10

PM2-1  
(cont'd)

1 MR. BLAND: So you have a box that you are in --  
2 MS. MUNOZ: You're designing the box.  
3 MR. BLAND: I'm making the box --  
4 MS. MUNOZ: You are.  
5 MR. BLAND: -- and you live in my box, right?  
6 MS. MUNOZ: No. You're living within my  
7 regulations.  
8 MR. BLAND: No, no my box -- here's the box. You  
9 look at my box, you don't look at the other box that there  
10 might be out there, which may in fact be a better box, or  
11 more palatable box to a lot of people concerned?  
12 MS. MUNOZ: If we could get back to the proposed  
13 project -- out of your box right now, and we are reviewing  
14 what's put before us.  
15 MR. BLAND: But the box -- but you're saying  
16 there's only one box. My box, right? I have a box. You  
17 look at my box and you evaluate my box. You don't look at  
18 the other boxes that are like right in front of you and  
19 right next to you and all around you, but you only look at  
20 my box.  
21 So already I'm controlling the game. You're  
22 playing in my box with my rules, correct?  
23 MS. MUNOZ: Well, you're trying to control my  
24 meeting, sir.  
25 MR. BLAND: (Laughing)  
26

Z-58



## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

11

PM2-1  
(conf'd)

1 MS. MUNOZ: So I'd like to try to answer your  
2 question.  
3 We look to see what meets the proposed project's  
4 goal, what they've submitted to us. But it is our project;  
5 we don't design the project.  
6 MR. BLAND: Absolutely. I don't want you to look  
7 at any other box; I want you to look at my box.  
8 So now in order for you to look at another option  
9 by the rules that have been establishes by whoever created  
10 your organization, then I would have to have another  
11 pipeline company come and say, 'You know, I'd like to build  
12 a pipeline down -- the Santa Cruz valley, because there's  
13 already an existing utility corridor, and it doesn't go  
14 through one of the most pristine valleys in Southern  
15 Arizona.  
16 So that's the only way that that would ever be  
17 considered, right?  
18 MS. MUNOZ: Is that your comment?  
19 MR. BLAND: Well, yes. I'm asking you questions.  
20 MS. MUNOZ: This isn't meant to be a question and  
21 answer session. If you want to talk about --  
22 MR. BLAND: Ooh.  
23 MS. MUNOZ: We're still staying on the FERC  
24 process, and will remain on that. But we're not talking  
25 about any other project or potential project; we're talking  
26

Z-59

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

12

PM2-1  
(cont'd)

1 about the one that's proposed before us.  
2 MR. BLAND: Right. So, that's the box. Right?  
3 MS. MUNOZ: Would you like to add to any of the  
4 box, David? Is there anything more we can add?

PM2-2

5 MR. BLAND: Well, I guess I don't have anything  
6 else I can say about this, except that this is a very  
7 pristine valley that had -- a lot of people; my sister got  
8 married down here, my family lived here for over 20 years.  
9 And it just seems like it's one of the few remaining places  
10 that's relatively pristine, and here we are willing to  
11 change that when -- I don't seem to think it's really that  
12 necessary. I know this gas is needed wherever it's needed,  
13 but there's a lot of other ways to float that ship. You  
14 know, I just don't see the point of, for somebody's economic  
15 considerations that can be satisfied in another way, why  
16 that can't be done without tearing up a nice valley.

17 That's all; that's my comment.

18 MS. MUNOZ: Thank you.

19 Jacqueline Bland.

20 MS. BLAND: I'm Jacqueline Bland, and as Steven  
21 said, his family owned the Sierrita Vista, so we spent a  
22 good number of years coming down in the Valley.

PM2-3

23 I guess I'm not really clear about why this  
24 valley is being proposed to be torn up by Kinder Morgan when  
25 there's another corridor that could easily satisfy their  
26

PM2-2

The commenter's statement regarding the Altar Valley is noted. Section 3 addresses alternatives to the proposed Project.

PM2-3

Sierrita proposed a route in the Altar Valley in order to meet its objective of providing natural gas transportation services of up to 200,846 Dth/d to the U.S.-Mexico border near Sasabe, Arizona for a 25-year term starting on or about the end of September 2014. The delivery location near Sasabe is part of the Project objective.

Also see responses to comments PM1-4, PM1-6, and PM1-9.

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

13

PM2-3  
(cont'd)

1 needs. I think that the environmental impact would be  
2 great, I think that there's a lot of wildlife and a very,  
3 very delicate ecosystem down here. I think no matter what  
4 Kinder Morgan says in terms of their sensitivity to the  
5 environment, a 60-mile, 3 foot wide area plus the roads that  
6 would need to be made to accommodate the heavy equipment  
7 that is going to be used -- that's something that the valley  
8 will never recover from.

9 This is a valley where the desert takes 100 years  
10 for Saguaro to grow to any great height. And these things  
11 are important. These are important things to the people

PM2-5

12 that live down here. And we're dealing with a company that  
13 has an estimated value of \$105 billion. And if they're  
14 doing this because it's cheaper to run it this way than to  
15 run it down the existing corridor, that doesn't make sense.

16

17 I know that when people like us talk to people  
18 like you or talk to large corporations, it may sound, "Oh,  
19 these people are thinking about the environment and the  
20 money" -- you know, we're the people that live here, we're  
21 the people that appreciate this. And I think at some point  
22 you have to take into account that corporations with this  
23 kind of money -- it's just not right for them to be running  
24 over people like us, places like this. These places are  
25 disappearing, and -- you're down here, you see how beautiful

26

PM2-4

The Project-related impacts on environment are discussed throughout the EIS.

PM2-5

The commenter's statements regarding the Project proponent are noted.

19-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

14

PM2-5 | 1 it is.  
(cont'd)  
PM2-6 | 2 And I guess I've never been satisfied in terms of  
3 the answer to the question, "Why they need to run it this  
4 way rather than into Nogales." And I have heard two things;  
PM2-7 | 5 I've heard that the natural gas is going to Mexico, and then  
6 I've heard that it's going to a port so that it can be  
7 shipped to other countries. So I'm not real clear about  
8 where this gas really is going, and I still don't really  
9 understand.  
PM2-8 | 10 If it's not just that it's cheaper to run it this  
11 way than through the I-10 corridor, you know, the corridor,  
12 the Innt Corridor, I don't understand why it's being done  
13 this way.  
PM2-9 | 14 And just as a person who loves this area, I think  
15 that that is as important in the decision, in FERC's  
16 decision, as the financial decisions of Kinder Morgan. I  
17 think that people are important. It sounds silly, it might  
18 sound naive, but it's real. And all these people in this  
19 room that live down here can tell you that this is their  
20 soul. And there are people in this room that would lay down  
21 their bodies across the road to prevent this. And that's  
22 something that you should take into consideration, please.  
23 Thank you.  
24 MS. MUNOZ: Thank you for your comments.  
25 MRS. BLAND: Thank you.  
26

PM2-6 See responses to comments PM2-3, PM1-4, PM1-6, and PM1-9.

PM2-7 As discussed in sections 1.1.1 and 1.4, the U.S. and Mexico facilities are designed to provide natural gas to assist in meeting Mexico's projected energy demands and to promote Mexico's wide-scale initiative to transition from heavy fuel-oil- to natural-gas-fired electric generation. In Mexico, the planned Sásabe-Guaymas Pipeline would continue for approximately 338 miles to the Towns of Puerto Libertad and Guaymas in the State of Sonora. Currently, Mexico's electric generation facilities in northwestern Mexico are fuel oil thermal generation plants. The CFE is proposing to convert or replace fuel oil thermal generation plants into natural gas-fired combined-cycle generation plants.

PM2-8 See responses to comments PM2-3, PM1-4, PM1-6, and PM1-9.

PM2-9 Stakeholder comments received throughout the FERC pre-filing process (and after), at public meetings, and throughout the draft EIS comment period (and after) have been considered in the development of the EIS.

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

15

1 MS. MUNOZ: Andrea Dalessandro, please.

2 MS. DALESSANDRO: Good morning. I'm Andrea  
3 Dalessandro. My husband said he gave me two more letters  
4 when he married me. I am one of the State representatives  
5 for this area, Legislative District 2, and I represent a  
6 part of Pima County, this part of Pima County and Santa Cruz  
7 County.

8 In the spring, I was at a Game and Fish meeting  
9 when news of this pipeline was in the paper; and I heard  
10 from many land owners in the northern part, too. I live in  
11 Sahuarita and the meeting was in Sahuarita, so I have heard  
12 issues raised by ranchers and other residents in the  
13 northern part.

14 I have issue with practically everything. I guess  
PM2-10 15 that's why I got elected. First of all, the Sasabe  
16 pipeline. I live in Sahuarita and we do have a Sierrita  
17 mine. So I think that that's, the title of it is a little  
PM2-11 18 bit confusing. I also have issues with the timing of this  
19 meeting, both 11 days before a big holiday, and just before  
20 the deadline for comments. I don't know if that's  
21 deliberate, but it does seem very rushed to me.

PM2-12 22 I have issues of security, both from a federal  
23 level because I'm an alumna of the Border Patrol Citizens  
24 Academy of Tucson Station, we're in the Tucson sector, but  
25 this particular area is in the Tucson Station; and at a time  
26

PM2-10 The commenter's statement regarding the Project name is noted.

PM2-11 The commenter's statement regarding the timing of the meeting is noted. All comment periods were held according to regulations and guidance. FERC continued to accept comments and any other materials placed into the record past the defined comment periods.  
Also see response to comment PM1-37.

PM2-12 The commenter's statements regarding the U.S. Border Patrol and government sequester are noted. Sections 1.2.2.4 and 4.9.1 address the U.S. Border Patrol and border security.

Z-63

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

16

PM2-12  
(cont'd)

1 when the federal government has all kinds of sequester, in  
2 the sequester mode, it really gives a much broader territory  
3 with more access to complicate the job that the Border  
4 Patrol does; and I know there's a representative of Border  
5 Patrol here.

PM2-13

6 I'm also concerned as a resident of Pima County  
7 that the difficulties-- and part of it is because of the  
8 State Legislature but not me, because I just got sworn in in  
9 January -- but they've repeatedly cut funding from the  
10 counties. They've given the fat cats tax breaks and they've  
11 shifted a lot of responsibility for a lot of things to the  
12 county. So Pima County is struggling and they're doing a  
13 really good job, but they don't have the sheriff's force to  
14 patrol expanded regions of rural area.

15 The previous speaker spoke eloquently about some  
16 of the environmental negative impacts, possible negative  
17 impacts to this pristine valley. But I'm also, you know,  
18 the whole area in Southern Arizona has a flood of economic

PM2-14

19 challenges; and one of the areas that I'm working on is  
20 tourism, and having a pipeline in this area will negatively  
21 effect the small businesses that operate in the tourism  
22 industry.

PM2-15

23 I am on the record for opposing the pipeline at  
24 this place; I also represent Santa Cruz County; and Nogales  
25 often doesn't have enough natural gas supply, and they have  
26

PM2-13

Section 4.10.3 discusses the Pima County Sheriff Department's estimate of the costs associated with potential increased enforcement controls and incident investigations resulting from the illegal immigration activities associated with the Project, and has been updated to reflect more recent data from Pima County.

PM2-14

Sections 4.8.4 and 4.10.6 address potential Project-related impacts on recreation and special interest areas and ecotourism, respectively.

PM2-15

See responses to comments PM1-4, PM1-9, and PM1-41.

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

17

PM2-15  
(cont'd)

1 to use diesel to generate the power they need. Companies  
2 that want to come to Nogales, Arizona often don't because  
3 there's inadequate gas supply; and also, the previous  
4 speaker spoke about going to Nogales. On the other side of  
5 the border there are several hundred thousand people. And a  
6 prosperous Mexico, our neighborhood to the south, will mean  
7 more prosperity for Arizona.

PM2-16

8 Before the meeting, I was informed that there  
9 were some negotiations with Pima County yesterday about a  
10 modification to the route. I'm sorry I didn't get to speak  
11 to all of the attendees, who are local here, but the people  
12 I spoke to said it would only improve it a smidge better.  
13 You know, that changing the route would only be a smidge  
14 better; and to me a smidge isn't good enough.

15 My background is, I was a Certified Public  
16 Accountant for 30 years, and I look at the economic impact  
17 to Pima County, and it's my understanding that with  
18 accelerated depreciation, the revenues will go down in time  
19 and the expenses for especially security will go up. And  
20 that concerns me greatly.

PM2-17

21 My last point is that I don't really see a  
22 benefit. All I see is a negative. I don't see a benefit to  
23 Arizona and I don't see a benefit to Pima County. Thank  
24 you.

25 MS. MUNOZ: Thank you for your comments.  
26

PM2-16

The commenter's statement regarding modifications to the route is noted. We have not been made aware of any official route modifications identified during conversations between Pima County and Sierrita.

PM2-17

The commenter's opposition to the Project is noted. Section 4.10.6 addresses the socioeconomic impacts associated with the Project, including certain benefits.

Z-65

PM2 – Public Meeting in Sasabe, Arizona (cont'd)

18

1 Mr. Robert Teran.

2 MR. TERAN: Hello, my name is Robert Teran  
3 (spelling), with the Operating Engineers, Pipeline  
4 Department in the Tucson, Answer area. I'm also appearing  
5 here today as a member of the Western Ranchers Alliance and  
6 Rocky Mountain Environmental Labor Coalition.

7 The Western Ranchers Alliance advocates for safe  
8 pipeline construction and seeks to ensure that any pipeline  
9 that goes through Pima County has well-trained and  
10 experienced workers who know what the best practices (are)  
11 and to make sure that there are fewer risks and chances for  
12 accidents during the construction of the proposed project.

13 The Rocky Mountain Environmental Labor Coalition  
14 seeks to unite labor leaders, union members, environmental  
15 activists and other concerned citizens to fight for good-  
16 paying jobs with benefits, and with a clean environment to  
17 support the Blue-Green Alliance.

PM2-18 18 On behalf of those organizations, I'm here to  
19 support the proposed Kinder Morgan Sierrita Pipeline Project  
20 and FERC's assurance of the Draft Environmental Impact  
21 Statement for the project. The Sierrita Pipeline Project  
22 will transport natural gas from a tie-in with El Paso Gas  
23 Company's existing south main line system near Tucson,  
24 Arizona, south to the U.S.-Mexico border near Sasabe,  
25 Arizona.  
26

PM2-18 The commenter's statement regarding support of the Project is noted.

99-Z



## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

19

1           The proposed Sierrita Pipeline Project will  
2     include construction of 60 miles of a 36-inch diameter  
3     natural gas pipeline in Pima County. We're proud to say  
PM2-19 4     that the pipeline project will be built using labor. The  
5     pipeline project construction will create good union jobs  
6     here in Arizona and support the long term economic viability  
7     of Arizona communities through the increased use of local  
8     work force and help create long term career opportunities  
9     for other workers.

10           The pipeline workers will receive good wages and  
11     benefits, and will spend those wages in our local Arizona  
12     businesses, and will pay taxes to support our local schools  
13     and public works projects. Paying higher wages and better  
14     fringe benefits helps reduce the hidden cost taxpayers often  
15     bear when workers are paid lower wages and do not receive  
16     health benefits that result from increases in claims for  
17     income assistance and expense of providing emergency room  
18     health care services to the uninsured within the local  
19     community.

20           The workers on the pipeline project will have  
21     excellent training from union apprentice programs registered  
22     with the U.S. Department of Labor. Having trained workers  
23     building the pipeline should address any safety concerns  
24     about the pipeline project. These training programs teach  
25     workers how to comply with health and safety and  
26

PM2-19     The commenter's statement regarding the Project creating jobs and supporting career opportunities is noted. Section 4.10.6 addresses the Project-related impacts on the economy and tax revenues.

Z-67

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

20

1 environmental requirements, increasing workers' awareness at  
2 the work site.

3 Trained workers are going to make better and  
4 safer pipelines by following workplace safety guidelines,  
5 pipeline safety rules, and environmental regulations.  
6 Workers who have completed apprenticeship programs are less  
7 likely to have accidents or perform shoddy work. Properly  
8 trained workers therefore lessen the chance of welds fails,  
9 pipelines leaking, or pipelines being ruptured.

10 In conclusion, we support the proposed Sierrita  
11 pipeline project and request that FERC issue the Final  
12 Environmental Impact Statement so the construction of the  
13 project can begin in 2014. This is a good project for Pima  
14 County, Arizona, and we would like to see it approved by  
15 FERC.

16 Thank you.

17 MS. MUNOZ: Thank you for your comment.

18 Mary Kasulaitis.

19 MS. KASULAITIS: Good morning. My name is Mary  
20 Kasulaitis. I'm a cattle rancher, and I'm a member of the  
21 Altar Valley Conservation Alliance, but I'm not representing  
22 them in this comment today; this is just my own comment.

PM2-20 23 My objection is to the location of the proposed  
24 pipeline using the Altar Valley as the corridor, to its  
25 unavoidable detriment. Rather than the Santa Cruz Valley

26

PM2-20 See responses to comments PM1-4, PM1-6, and PM1-9.

89-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

21

PM2-20  
(cont'd)  
PM2-21

1 where there is already a right-of-way and already a  
2 presidential permit. I would like to know why Mexico has  
3 the right to dictate where this pipeline will go.  
4 We are already feeling the brunt of Mexico's  
5 inability to manage its economic affairs, as migrants pour  
6 into this country across this ranchland. Why do they have  
7 the right to trash this valley? First illegally, and now if  
8 they get this project approved, they will be able to do it  
9 legally. It's as if the UPS guy came and outside your house  
10 he said, "Oh, no, I can't come to your house using this  
11 driveway, or using this doorway. You have to build another  
12 driveway and another doorway just for me."  
13 That's the analogy I have, it's like there's no  
14 rhyme or reason why they cannot use the existing right-of-  
15 way. Thank you.  
16 MS. MUNOZ: Thank you for your comment.  
17 Mr. Roger McManus.  
18 MR. McMANUS: Thank you. My name is Roger  
19 McManus. Much of my current work is as an environmental  
20 consultant and volunteer for nongovernment organizations and  
21 natural resource agencies. In public service, I work for  
22 the U.S. Fish and Wildlife Service in two administrations;  
23 at the President's Council on Environmental Quality in the  
24 Executive Office of the President, and as an advisor to the  
25 Secretary of the Interior. I have served the U.S.  
26

PM2-21 See responses to comments PM1-4, PM1-6, and PM1-9.

69-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

22

1 Government on a number of delegations regarding  
2 international agreements.

3 My private sector work includes 20 years with the  
4 Center for Marine Conservation. Most of that time as the  
5 CEO of the organization, and as a Vice President with  
6 Conservation, International. I spent decades working with  
7 the International Union for the Conservation of Nature.

8 I'm pretty familiar with NEPA and the application  
9 of NEPA both domestically and with environmental assessments  
10 internationally. I must admit that I've been an admirer of  
11 the professional work of the Federal Energy Regulatory  
12 Commission. However, I cannot recall a more tortured  
13 construct as presented in the Draft Environmental Impact  
14 Statement for the Sierrita Pipeline Project. I'm  
15 embarrassed for FERC.

PM2-22 16 Moreover, what is being proposed is so obviously  
17 inexplicable that one cannot escape from speculating that  
18 the driving force is financial benefit that is not  
19 transparent, but it is clear it will be realized at the  
20 expense of U.S. public and private interests.

21 Now I would note that I -- of course, the  
22 introductory language that we got was that this is not a  
23 proposal by FERC. Folks, I rarely have ever read a NEPA  
24 document which didn't seem so -- the advocacy of the agency,  
25 it's very disappointing, and I think there are numerous

26

PM2-22 See response to comment PM1-4.

The EIS was prepared in accordance with NEPA, CEQ guidelines, and other applicable requirements. The EIS is consistent with FERC style, formatting, and policy regarding NEPA evaluation of pipeline projects.

Z-70

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

23

PM2-22 (confd) 1 aspects of the document that need to be improved to  
2 eliminate that perspective.

PM2-23 3 FERC suggests what is being reviewed is simply a  
4 choice of doing what the company wants, or not doing it. If  
5 that is truly our choice, I urge FERC to embrace the no-  
6 action alternative.

PM2-24 7 If you just read through the document, the  
8 purpose of the project is not consistently portrayed; but at  
9 one point the EIS states: The object of the project is to  
10 transport natural gas to the U.S.-Mexico border near Sasabe,  
11 Arizona. That is fundamentally a misleading statement.

12 Essentially what is being proposed is to drive a  
13 major pipeline through U.S. public lands and private  
14 property to reach a remote and relatively undeveloped town,  
15 tens of miles out of the way of purported destination of the  
16 gas, which is not Sasabe, but Guynas {ph}. It is virtually  
17 a straight line from Tucson to Lymas. The proposal is  
18 tortuous, complemented by a unique example of an  
19 unprecedented, tortured draft environmental impact  
20 statement.

PM2-25 21 The DEIS proposes to base all of the alternative  
22 analyses on the Sasabe termination. Why? As noted in the  
23 DEIS, because Sierrita consulted with IEnova and its  
24 customer, MGI Supply, Limited, and determined that the  
25 proposed crossing near Sasabe is the only viable crossing  
26

PM2-23 See response to comment PM1-4.

The commenter's preference for the No Action Alternative is noted.

PM2-24 See responses to comments PM1-4 and PM2-3.

PM2-25 See response to comment PM1-4.

Z-71

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

24

PM2-25  
(cont'd)

1 location for the project. Therefore, alternatives that  
2 would deliver natural gas to other locations would not be  
3 viable and would not meet the delivery objective of the  
4 project.  
5 The logic sets a whole new standard under NEPA  
6 whereby proponents of major projects determine the scope of  
7 alternatives by their preference without any obligation to  
8 provide a shred of explanation. Consequently, there are no  
9 real assessments of alternative routes because of the  
10 premise that Sasabe can be the only place where the pipeline  
11 can cross. No real alternatives are evaluated, only absurd  
12 results from gerrymandering all routes to end in Sasabe.  
13 If Mexican interests want to connect to Sasabe no  
14 matter where the pipeline terminates on the U.S. border,  
15 then they are free to do that in Mexico. They are already  
16 making irretrievable commitments of resources to build a  
17 pipeline to Sasabe. Apparently they believe the fix is in.  
18 And I think many people in the audience would wonder if the  
19 fix is in at some level in the U.S. Government.  
20 I cannot think of any U.S. environmental impact  
21 statement which makes this kind of assumption. If this  
22 approach was widely practiced, it would make the analysis of  
23 alternatives largely meaningless, as in the case of this  
24 situation.

PM2-26 25 FERC's rationale further erodes when focusing on  
26

PM2-26

Section 3.1 addresses the No Action Alternative, which also discusses that other pipeline companies could propose other projects to meet the identified need or similar needs. Also see response to comment PM1-4.

Z-72

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

25

PM2-26  
(cont'd)

1 the possible consequences of choosing a no-action  
2 alternative. FERC notes that it is speculating and beyond  
3 the scope of this analysis to predict what action might be  
4 taken by policy makers or end users in response to the no-  
5 action alternative.

6 The Commission then proceeds to speculate with  
7 abandon on the merits and problems with coal, nuclear  
8 energy, renewables and other possibilities. If there were  
9 other real alternative routes considered, the need for this  
10 litany of speculation would be diminished. Notwithstanding  
11 the caveat regarding the speculation, FERC then concludes:  
12 Based on the above factors, the discussion about speculative  
13 results from a no-action alternative, we are not  
14 recommending the no-action alternative.

15 Well, we are clear then that the basis for FERC's  
16 rejection of the no-action alternative is the FERC's concern  
17 about other undesirable speculative results. Presumably,  
18 any such proposed alternatives, however, also would be  
19 subject to NEPA. But in the alternative universe created in  
20 this DEIS, that could not include alternative routes for a  
21 gas pipeline.

PM2-27

22 Recognizing the analysis conducted by FERC in  
23 this DEIS are not usable for analyses of real alternative  
24 routes, I'll provide another perspective on the Nogales west  
25 route alternative. I think the public opinion of the

26

PM2-27

See responses to comments PM1-4, PM1-6, and PM1-9. The commenter's statement regarding a supplemental draft EIS is noted.

Z-73

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

26

PM2-27  
(cont'd)

1 desirability of this alternative goes beyond FERC's  
2 characterization that it be considered. Throughout this  
3 process I think people have been pretty adamant, and there  
4 seems to be a clear choice about the proposed route.

5 In preparing the supplemental DEIS, as I am  
6 requesting you to do, I do think we need a supplemental DEIS  
7 to address the problems being raised. I suggest you further  
8 explore the benefits of the Sierrita line following the  
9 existing utility corridor, including to the extent the  
10 investment could improve the aging and inadequate pipeline  
11 capacity in that corridor.

12 As noted above, if Mexican interests want to  
13 build a pipeline from Nogales-Sonora to Sasabe, that is  
14 their business. To suggest as FERC does that any extensions  
15 to Sasabe from where the pipeline may alternatively cross  
16 the U.S. border necessarily have to be on the U.S. side, at  
17 U.S. expense, is patently absurd.

PM2-28

18 Finally, FERC emphasizes that Mexico is a  
19 sovereign country responsible for implementing its own  
20 energy policy. I agree. The United States of American is a  
21 sovereign country also. If interests in Mexico want to  
22 build a pipeline to nowhere, for reasons that are  
23 undisclosed, then it's up to the Government of Mexico to  
24 ascertain if it is in their country's best interest. The  
25 United States of America is not compelled to subjugate our

26

PM2-28 See responses to comments PM1-4, PM1-6, and PM1-9.

Z-74



## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

27

PM2-28  
(cont'd)

1 policy and protections for the property of U.S. citizens for  
2 the benefit of a foreign power, as apparently FERC would  
3 suggest by this deeply flawed DEIS.

4 Opposition to this flawed DEIS is not opposition  
5 to an improved gas line to Mexico. Selling gas to Mexico or  
6 the financial benefits such commerce would have for the  
7 United States and Mexico. The opposition to this DEIS and  
8 the process of champions is about preserving the opportunity  
9 to choose among available alternatives for the benefit of  
10 the United States, our natural resources, and our people.

PM2-29

11 Finally, I just want to emphasize that I think  
12 the premise that is being proposed is singularly contrary to  
13 almost every DEIS or environmental impact statement I've  
14 ever been involved in. So I would suggest that in the  
15 supplemental, you reconsider the notion that there be  
16 alternatives considered, alternative routes considered,  
17 including the Nogales terminus.

18 Thank you.

19 (Applause)

20 MS. MUNOZ: Thank you.

21 Mr. Charlie McDaniel.

22 MR. McDANIEL: I think I'll pass for now, He  
23 kind of got me riled up.

24 MS. MUNOZ: Okay. If you change your mind, let  
25 me know.

26

PM2-29

See responses to comments PM1-4, PM1-6, and PM1-9. The commenter's statement regarding a supplemental draft EIS is noted.

Z-75

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

28

1 Charlie Miller, please.

2 MS. MILLER: I am not Charlie.

3 MS. MUNOZ: Ms. Mary Miller.

4 MS. MILLER: I am Mary Miller (spelling), and I  
5 am going to deliver a comment prepared by my husband,  
6 Charlie Miller. He attended the meeting Thursday night, but  
7 had to do ranch work this morning. But these are his words.  
8 It is very unusual for him to spend the afternoon indoors,  
9 and he did that yesterday, so. If that suggests how  
10 important this is to him, so be it.

11 After listening to comments on Thursday night, I  
12 thought it might be useful to talk about some of  
13 the historical events in the Altar Valley that  
14 would help explain how we've gotten to this  
15 point. Perhaps a good place to start is with the  
16 origins of the Altar Valley Conservation  
17 Alliance.

18 A number of years ago, we were in a particularly  
19 combative phase in regards to land management in  
20 the Altar Valley. Extreme conflicts existed  
21 between area ranchers, hunters, other land users,  
22 and government agencies. In addition,  
23 uncontrolled development threatened the open  
24 spaces in which we operated our businesses.  
25 During this time and climate, in 1995 to be

26

Z-76

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

29

1 exact, John King and I had a cup of coffee at the  
2 livestock auction. We talked about the situation  
3 and began to wonder if there was a way to work  
4 with interested parties in a positive way to  
5 manage the Altar Valley Watershed for the benefit  
6 of all these groups. From this simple concept,  
7 the Altar Valley Conservation Alliance was born.  
8 And again, these are definitely his words, but it is true:  
9 Of course as wise men we immediately went back to  
10 digging post holes, and left the implementation  
11 of our grand idea to our wives. That is very  
12 true.  
13 The Alliance is, in effect, a public-private  
14 partnership which attempts, among other things,  
15 to manage the Altar Valley as a complete  
16 watershed. As part of that goal, we recognize  
17 the need to keep the valley open. We've been  
18 joined in this undertaking by various partners;  
19 often, state, federal and local agencies as well  
20 as hunters groups and other interested parties.  
21 Pima County, particularly via the Sonoran Desert  
22 Conservation Plan, has become a key partner.  
23 These partnerships, mostly public and private in  
24 nature, rely on a certain trust between partners.  
25 We need to believe that we all have the good of  
26

Z-77

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

30

1 the greater watershed as a goal. We feel that  
2 this pipeline project has struck at the heart of  
3 this trust that we as private businesses must  
4 have in our public partners. Most of our  
5 partners in the state and county have been active  
6 with us in trying to protect the unfractured  
7 nature of this valley.  
8 We do have some problems, however, with some of  
PM2-30 9 our partners at the federal level. The statement  
10 in the Draft EIS that the FERC hasn't the  
11 authority to recommend the eastern highway route  
12 through BANWR, despite its environmental  
13 advantages, changes this document from an  
14 environmental impact statement into a political  
15 impact statement.  
16 The Border Patrol at the national level has  
17 ignored very real concerns about public safety  
18 and border security, and effectively silenced the  
19 on the ground know-how and voice of their local  
20 personnel.  
21 It would seem that on this issue the FERC, the  
22 Border Patrol and Fish and Wildlife Service have  
23 put agency politics above what is best for the  
24 environment and people of the Altar Valley. It  
25 is indeed disappointing that these branches of  
26

PM2-30

See response to comment PM1-10.

As discussed in section 1.2.2, the BANWR and CBP (along with the FWS-AESO and AGFD) are participating as cooperating agencies in the preparation of the EIS because they have special expertise on environmental resources associated with the Project.

Z-78

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

31

PM2-30  
(cont'd)

1 the same federal government cannot do more to  
2 work together, at minimum to the point of fully  
3 analyzing the highway route through the Altar  
4 Valley, which could avoid greenfield development  
5 and many border security and public safety  
6 problems.

7 Again, this is Charlie, not me. Although I do share most  
8 all of this.

9 Though I'm not a liberal, I can imagine the  
10 disappointment felt by a liberal when reading  
11 this document. In their view, the government is  
12 supposed to protect individual and business  
13 rights from being trampled by Big Business. At  
14 times it has appeared that the federal agencies  
15 have held Kinder Morgan's coat and hat while they  
16 trampled away.

17 As a lifelong political conservative, I've also  
18 found room for disappointment. While generally I  
19 favor private sector approaches, I was raised on  
20 the Goldwater philosophy of "Don't tread on me."  
21 My business interest in this valley has deeper  
22 roots than Kinder Morgan's and should not be  
23 ignored.

PM2-31

24 It does appear in this DEIS, though, that are  
25 business interests are being ignored even though  
26

PM2-31 See response to comment PM1-7.

Z-79

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

32

PM2-31  
(cont'd)

1           there is apparently no local support for this  
2           project. In my view, this represents a failure  
3           of this public process.  
4           One of our criticisms of this DEIS involves the  
5           treatment of livestock grazing in the Altar  
6           Valley. The treatment of ranching and livestock  
7           grazing potentially sets up a situation where  
8           grazing could be turned into the scapegoat for  
9           likely restoration failure. Here in the Altar  
10          Valley our partners and we have grown way beyond  
11          the grazing wars to recognize that cowboys and  
12          conservationists can and must work together.  
13          It seems to me that a short, general history of  
14          grazing activity in the Valley might be helpful  
15          to the FERC. Cattle have grazed in the Altar  
16          Valley for a very long time, possibly since the  
17          1700s, though the absence of developed water was  
18          a limiting factor. In the late 1800s, with the  
19          end of the Apache conflicts and the advent of  
20          water development, the number of cattle in this  
21          area greatly increased. Cattle numbers  
22          eventually reached an unsustainable level.  
23          Prior to the Taylor Grazing Act, most land in the  
24          west was public domain. Everyone could use it  
25          and no one was responsible for it. Grazing was  
26

08-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

33

PM2-31  
(conf'd)

1 excessive. Fire was suppressed. This set up  
2 conditions favorable to shrubs like mesquite at  
3 the expense of range grasses.  
4 Then in the late 1800s to early 1900s, the  
5 country experienced severe drought, further  
6 reducing grass cover on the range. As often  
7 happens, flooding broke the drought. Without  
8 grass plants to hold the soil, this flooding  
9 resulted in erosion, extreme gully formation and  
10 conditions favoring drought shrubs increased.  
11 Mesquite canopys increased to the point where not  
12 enough sunlight could reach the soil, resulting  
13 in less understory and more erosion.  
14 About this time, unrestricted grazing came to an  
15 end. Individual ranches were defined, fenced, and  
16 controlled grazing practices began. Eventually,  
17 the Taylor Grazing Act effectively ended  
18 unmanaged grazing on the public domain and  
19 established a system to lend responsibility to a  
20 previously uncontrolled situation. Certainly by  
21 the 1950s, a little bit before, attempts were  
22 being made to reverse the damage done in this  
23 earlier era. Ranchers began clearing mesquite  
24 and planting grass to replace the native grasses  
25 that no longer existed in many areas.

26

18-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

34

PM2-31  
(cont'd)

1                   There was this dense mesquite canopy. On our  
2                   ranch, over 300 trees per acre, with bare ground  
3                   underneath. A lot of seeding programs utilized  
4                   Lehmann's Lovegrass which, at that time in the  
5                   1970s and '80s was considered by range  
6                   conservation experts to be a desirable choice due  
7                   to its ability to grow in denuded areas.  
8                   In the 1970s, the federal government began to  
9                   work on the masked bobwhite quail recovery plan.  
10                  To my knowledge, they worked on the Las Delicias  
11                  Ranch, the Buenos Aires Ranch, and the Casadore  
12                  Ranch. The Buenos Aires have been extensively  
13                  cleared and reseeded to lovegrass. When I was a  
14                  college student at the University of Arizona,  
15                  this ranch was the site of many field trips, as  
16                  it was considered to be an outstanding,  
17                  progressively managed ranch.  
18                  In the early 1980s, as a result of these early  
19                  programs and the successful stand of lovegrass,  
20                  the Fish and Wildlife Service decided to buy the  
21                  Buenos Aires cattle ranch and establish the  
22                  Buenos Aires National Wildlife Refuge. This is  
23                  the real story of how Lehmann's Lovegrass came to  
24                  the valley and the story of how at one time even  
25                  the Fish and Wildlife Service thought it had  
26

Z-82



## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

35

PM2-31  
(conf'd)

1 value.  
2 We all know that the state of knowledge changes  
3 with time; and while experts now feel that as an  
4 exotic species, Lehmann's Lovegrass is not  
5 desirable, it has and continues to serve a vital  
6 by holding soil, thus conserving a vital  
7 resource.  
8 More recently we have tried using native grasses  
9 in our seeding. We have had limited success and  
10 have a lot to learn. We would like to suggest  
11 that FERC review this version of Altar Valley  
12 history, as it is pertinent to their expectations  
13 for success in their re-vegetation claim for this  
14 project.  
15 For the last forty, fifty years or so, ranchers  
16 have been working to reintroduce fires, a  
17 management tool in this area. We have often  
18 worked very successfully with public agencies on  
19 these projects, including completion of a valley-  
20 wide fire management plan to accomplish NEPA and  
21 endangered species compliance; and by site-  
22 specific fire plans to actually put fire back on  
23 the ground. We have also been doing extensive  
24 projects to manage mesquite and brush and heal  
25 gullies created by historical practices as part  
26

Z-83

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

36

PM2-31  
(cont'd)

1 of our plan to restore health to the overall  
2 Altar Valley watershed and the sub-watersheds on  
3 and between our ranches.  
4 Again, we have worked with many public agencies  
5 as well as some corporate sponsors on these  
6 projects. Together with many other agencies, we  
7 share particularly keen desire to tackle the  
8 extensive erosion of the main stem of the Altar  
9 Wash, a large scale, complex and expensive  
10 undertaking.

PM2-32

11 Should Kinder Morgan succeed in building this  
12 pipeline, we would hope they would become an  
13 active partner in our attempts to improve this  
14 watershed for the benefit of all.

15 So that concludes what Charlie had to say. If you can stand  
16 a little more, now I will say what I have to say.

17 So this is Mary Miller's comments.

18 I first would like to just say Merry Christmas to  
19 everyone. I think this is a good moment to pause and be  
20 thankful for the fact that we have a country with rich  
21 natural resources, a beautiful valley and a country where we  
22 can actually have civil discourse about complex topics. So  
23 let's just take pause and do that, even amongst these rough  
24 moments.

25 As my husband Charlie has suggested in the  
26

PM2-32 The commenter's statement regarding Kinder Morgan becoming a partner in watershed improvement is noted.

Z-84

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

37

1 comments I just provided, there is a more complex story on  
2 rangeland resources than is currently represented in the  
3 Draft EIS. I would like to suggest that part of that  
4 problem is the information sources utilized.

PM2-33 5 During scoping the Altar Valley Conservation  
6 Alliance submitted some maps of the Valley which apparently  
7 didn't receive much attention during your analysis. We  
8 would like to request that you revisit those maps,  
9 particularly the resource condition and vegetation maps.  
10 The Alliance is in the process of getting digital copies of  
11 some of the reports related to these maps. They will not be  
12 submitted to you by your December 15th deadline, but we  
13 understand from your comments that you'll treat them in the  
14 same way that you would. They were written a little bit  
15 before all of our great internet stuff, so it's going to be  
16 a little more complicated to get those to you, but we will.

17 I would also like to take this opportunity, and  
18 I'm directing my comments to Kinder Morgan now, too: To  
19 give you some information about some outstanding people who  
20 are, in my opinion, known and respected in our community. I  
21 believe that these people could be helpful in this project  
22 in terms of their ability to bring land and resource  
23 management experience, as well as conflict resolution  
24 expertise into the project. And I hope that FERC and/or  
25 Kinder Morgan might consider seeking their assistance for  
26

PM2-33 Section 4.4.1 has been updated to include a discussion of the AVCA's  
vegetation information.

Also see response comment PM1-7.

Z-85

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

38

1 this project.

PM2-34

2 First and foremost, I would like to recommend  
3 that a gentleman by the name of Dan Robinett would be able  
4 to provide expertise about rangeland management, soils, and  
5 the historical as well as current context of the project  
6 area and the overall community. He's one of the most widely  
7 respected rangecons in the west, and has worked in this area  
8 for decades; and cares a great deal; he's known by many of  
9 us, and trusted.

10 As an NRCS rangecon and now as a private  
11 consultant, he's worked with us and partners for over 30  
12 years, he also coauthored the Altar Valley Conservation  
13 Alliance resource assessment project, which we are working  
14 to provide to you, and would be an excellent resource to  
15 help you understand how it might be applicable to this  
16 situation.

17 I have contacted Dan and he is fine with me  
18 giving you his contact info; I'm not going to put it in the  
19 record for the universe to see, but I can get that to you.

PM2-35

20 Second, I would like to recommend a gentleman by  
21 the name of Steve Carson with Rangeland Hands. This is a  
22 company based in New Mexico, but he's worked quite a bit  
23 here in Arizona. He would provide very valuable expertise  
24 in the realm of access road restoration and improvement.  
25 He's an expert machine operator and restoration contractor.

26

PM2-34

The commenter's recommendation to consult with specific resource specialists is noted. It is at the applicant's discretion to consult with local specialists. Sierrita is consulting with the NRCS and other state and local agencies regarding seeding and restoration.

As discussed in section 4.8.2.3, Sierrita would secure easements to convey both temporary (for construction) and permanent (for operation) rights-of-way on private lands. Landowners have the opportunity to request that site-specific factors and/or development plans for their property be considered during easement negotiations, and that specific measures be taken into account.

PM2-35

The commenter's recommendation to consult with specific resource specialists is noted.

98-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

39

PM2-35  
(cont'd)

1 He is a one man shop, so he won't do the whole job, but I  
2 think he might be an excellent addition to your team. He's  
3 conducted numerous educational and practical workshops on  
4 rural and ranch road improvement, including efforts focused  
5 on the Pima County Department of Transportation crews.

6 He taught the road crew how to use their  
7 machinery in entirely different ways to build and maintain  
8 drainage structures, which have benefited the land and  
9 reduced maintenance needs on the roads. He's also skilled  
10 at designing and installing rock watershed restoration  
11 structures, and would provide excellent input to any team  
12 that Kinder Morgan might put together. And he's worked in  
13 the Altar Valley for almost a decade.

PM2-36

14 Finally, I'd like to recommend that FERC and/or  
15 Kinder Morgan utilize the services of either Kirk Emerson or  
16 Larry Fisher and Tommy Robertson of Southwest Decision  
17 Resources for conflict resolution and facilitation services.  
18 Should there be a need to pull a diverse group of people  
19 together to do tough work together, we trust these people to  
20 manage a productive, safe and fair environment for  
21 collaborative work. We would greatly appreciate you  
22 utilizing the services of someone that knows our area that  
23 we trust other than a stranger.

PM2-37

24 While I respect that Kinder Morgan has its  
25 trusted contractors and resources, I suggest that utilizing  
26

PM2-36

The commenter's recommendation to consult with specific resource specialists is noted.

PM2-37

The commenter's recommendation to consult with and employ persons with local knowledge and experiences is noted.

Z-87

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

40

PM2-37  
(cont'd)

1 people with local knowledge and experience would be an  
2 excellent way to supplement your team's expertise or  
3 experience, and build positive ties with Altar Valley  
4 landowners and partners.

5 Again, I'm happy to provide contact information  
6 for any of these people. Thank you for your consideration.

7 MS. MUNOZ: Thank you for your comments and your  
8 recommendations, and we'll talk to you afterwards to get  
9 their contact information.

10 Do we have any more speakers today?

11 MS. OWEN: My name is Melissa Owen (spelling).  
12 My husband and I own the Sierrita Vista Ranch. I'll make  
13 these very brief because I spoke on Thursday night. Thank  
14 you for the opportunity, both times.

PM2-38

15 I just thought of something on the way over here  
16 today. I picked up this jug -- (holding up one gallon  
17 plastic jug) -- I'm submitting this as evidence. This is a  
18 black water jug. Anybody who lives down here has seen a  
19 billion of these. It is specially manufactured to sell to  
20 illegal migrants so that they can carry it at night and not  
21 be detected.

22 You'll notice it has a label, the label says it  
23 was made in Sasabe-Sonora. There is a business right across  
24 the border making black water jugs for illegals. And we are  
25 adding to that, we're talking about adding to that problem

26

PM2-38 The commenter's presented evidence of illegal immigration activity is noted.

88-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

41

PM2-38  
(cont'd)

1 by making a highway coming from just four and a half miles  
2 south of my ranch to Tucson.

PM2-39

3 Anybody here in this room can drive about two  
4 miles over here and see a pipeline on the Mexican side being  
5 constructed. It's very, very difficult for us who live here  
6 not to believe that the deal is done. I keep hearing the  
7 phrase 'it's not a done deal.' But there's a pipeline  
8 that's being constructed south of the border. Now that  
9 leads me to believe that there's an understanding.

PM2-40

10 I live behind an 8-foot tall chain link fence,  
11 and three weeks ago I had a Border Patrol agent say to me,  
12 "Melissa, you should never go outside of this fence without  
13 being armed." That's the problem we're talking about, not  
14 just trash. Every illegal entrant into this country is  
15 estimated to bring nine to twelve pounds of trash, and they  
16 dump it on my ranch, they dump it on your ranch, yours,  
17 Walter.

PM2-41

18 I would beg the Commission to remember that they  
19 are not making a business deal, they're dealing with  
20 people's lives, their livelihoods, their land and down here  
21 their souls. We need more time to comment. I can hardly  
22 talk because for the past three weeks I have been going to  
23 every little fair, every meeting, every rotary club that I  
24 can to raise awareness about this issue.

25 We don't have enough time. Is it ten days before  
26

PM2-39

Section 4.15 addresses transboundary effects of the Project on Mexico. The FERC has no regulatory authority in Mexico and, therefore, cannot control the risk that Mexico, or any other business entity, takes on building a pipeline that could connect to a facility that may or may not be approved by the United States.

PM2-40

Section 4.9.2 acknowledges the potential for additional trash in the Project area. Section 4.9.2 describes the proposed measures Sierrita would install to deter unauthorized uses of the right-of-way.

PM2-41

The commenter's statement requesting the Commission to consider people's livelihood and lands is noted.

The FERC continued to accept comments on the draft EIS and any other materials placed into the record past the end date of the comment period and up to the point of publication of the final EIS.

68-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

42

PM2-41  
(conf'd)

1 Christmas? I've lost track. We do not have enough time to  
2 comment. I talked to people in Tucson last night, finished  
3 up at about 7 o'clock and drove back down here to be here  
4 for this meeting. They're going to have to be really  
5 motivated to get comments to you by Monday. This wouldn't  
6 be fair in July; it would be fair in February; it's sure not  
7 fair two weeks before Christmas.

8 So I would beg the Commission to remember what  
9 they're dealing with here when they make their decision, and  
10 to give us more time to comment. It's only fair. Thank  
11 you.

12 (Applause)

13 MS. MUNOZ: Do we have any more that would like  
14 to comment?

15 MS. MAYRO: Linda Mayro, Pima County. (Spelling)

16 Pima County has expended a great deal of effort  
17 to participate with the FERC in its public process and has  
18 painstakingly provided substantive critique of the proposed  
19 Sierrita pipeline project as it has evolved from pre- to  
20 post-filing.

21 We have also provided reasonable alternatives and  
22 recommendations that would have reduced the project's  
23 immediate and long term impacts on public safety, public  
24 infrastructure, border security, land and ranch management,  
25 and the significant public and private investments in the

26

06-Z



## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

43

1 health of the Altar Valley ecosystem.

PM2-42 | 2 Unfortunately, the Draft EIS does not take a hard  
3 look at these impacts or describe reasonable mitigations,  
4 measures in any sufficient detail. Pima County opposes the  
5 proposed route and demands that Kinder Morgan and FERC  
6 further explore the east route alternative with the U.S.  
7 Fish and Wildlife Service and with Congressman Bree Halpa

PM2-43 | 8 {ph}. If the I-19 route were to become a viable route, Pima  
9 County would certainly support the route along the existing  
10 federal utility corridor.

PM2-44 | 11 FERC regularly acknowledges in the DEIS, Chapter  
12 3.0, that the east route alternative would have far fewer  
13 environmental impacts than the proposed route, and that  
14 quote, "installing the pipeline adjacent to the existing  
15 road and utility line would largely avoid impacts associated  
16 with fragmenting, one of the largest tracts of contiguous  
17 semi-desert grassland in Southern Arizona."

18 Given this assessment, it is therefore incumbent  
19 on FERC to ensure that the Draft EIS alternative analysis  
20 explores every possible means to avoid, minimize and  
21 mitigate impacts from this pipeline. Until this is  
22 adequately explored and analyzed, the Draft EIS alternatives  
23 analysis is incomplete. Thank you.

24 (Applause)

25 MS. MUNOZ: Thank you.

26

PM2-42 See response to comment PM1-10. Pima County's opposition to the Project is noted.

The EIS was prepared in accordance with NEPA, CEQ guidelines, and other applicable requirements. The EIS is consistent with FERC style, formatting, and policy regarding NEPA evaluation of pipeline projects. Measures to avoid, minimize, and mitigate Project-related impacts are discussed throughout section 4.0. Additionally, section 5.2 summarizes the FERC staff's recommended additional mitigation measures (in addition to those proposed by Sierrita) discussed in section 4.0.

PM2-43 See responses to comments PM1-4 and 1-9.

PM2-44 See response to comment PM1-10.

I6-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

44

1                   Would anybody else like to comment?

2                   MR. McDANIEL: Can I get a second chance?

3                   MS. MUNOZ: Absolutely.

4                   MR. McDANIEL: For the second chance, I'm Troy

5                   McDaniel (spelling).

PM2-45 | 6                   There's a pipeline just on the other side; so you  
7                   have to wonder, what's special about the Altar Valley? What  
8                   are we missing? Smuggling. That's what this valley is  
9                   famous for; smuggling people and drugs. A pipeline can be  
10                  used to smuggle drugs.

11                  How is Kinder Morgan going to prevent that? I  
12                  don't see that mentioned anywhere. The DEA is aware of this  
13                  mechanism for smuggling, and as far as I can tell with the  
14                  pig launchers, I think there are four stations. How good is  
15                  the security? No one mentions that. Maybe that's what the  
16                  fix is.

17                  I think really the only alternative would be no  
18                  action because of the uncertainty. I'm not saying that  
19                  Kinder Morgan is deliberately cooperating with this; they're  
20                  being used. The southern end of the Altar Valley is all  
21                  about the cartel; that's who controls everything.

22                  MS. MUNOZ: Thank you for your comment, sir.

23                  Did anybody else want to make a comment?

24                  Okay. Please do.

25                  MS. BANKER-MURTADZA: My name is Tracy Banker

26

PM2-45

Sierrita's aboveground facilities would be secured by fencing and regularly monitored via aerial patrols of the pipeline right-of-way. The pipeline would be buried several feet underground and designed such that it cannot be easily damaged or disrupted. Furthermore, the pipeline would be operational (i.e., actively transporting natural gas) and natural gas in the pipeline would be transported at a pressure of 1,440 pounds per square inch gauge.

Section 2.6 addresses Sierrita's operation and maintenance procedures, including monitoring of the pipeline right-of-way. As discussed in section 4.8.1.2, Sierrita would install aboveground facilities within a fenced area.

Z-92

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

45

1 (spelling) - Murtadza. I'm a teacher here, I'm the head  
2 teacher, and I just want to point out some facts. I love  
3 this place, I love the environment, and I'm just going to  
4 put some facts, because this is what this is about, right?

PM2-46 5 I don't know which side the pipeline is going to  
6 go on, but my students recently just went on a trip to Brown  
7 Canyon and I don't know if you're aware, but there are wild  
8 turkeys in Brown Canyon. There are mountain lion in Brown  
9 Canyon, they're mountain lion that have come down almost to  
10 the school. There are bobcat; I used to see a lot of coyote  
11 on my way to school, crossing the road; I don't anymore.

PM2-47 12 I'm just pointing out that we found, my students,  
13 some interesting plants that have been recognized yet. I  
14 don't know if your environmentalists have found this out or  
15 not, but we would never have known if we hadn't have gone on  
16 a little hike through Brown Canyon.

PM2-48 17 I don't know if this pipeline, how much it's  
18 going to affect the rock formations that are specifically  
19 there up in Brown Canyon that have been there for 60 million  
20 years; I don't know if -- this school has already been here  
21 for 88 years, if this pipeline is going to affect the rock  
22 formations, that they will not be here and our students will  
23 even be able to walk through and have a field through that  
24 environment like they have in these past few years.

25 I just want to point out those facts. Thank you.

26

PM2-46 Section 4.5.1 addresses wildlife in the Project area.

PM2-47 Section 4.4.1 addresses vegetation in the Project area.

PM2-48 Section 4.1 addresses the geology of the Project area, including mineral resources, geologic hazards, and paleontology.

Z-93

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

46

1 MS. MUNOZ: Thank you.

2 Would anybody else like to speak today?

3 I just want to address quickly, and I know David  
4 has a few words he wants to say as well. We understand the  
5 timeline is pressing. We, too, understand that the holidays  
6 are here; and understanding that what we try to do is just  
7 set a timeline so that there's something to work within.

8 But absolutely, we know there are still things  
9 that are going to be filed; we understand that you have  
10 lives, you've made this a big part of your life, and you  
11 have tirelessly reviewed these documents, you've worked to  
12 understand our process, which impressive. And please  
13 understand that we encourage your comments, we understand  
14 there's still information and reports that you want to  
15 provide, and we absolutely are going to take those into  
16 consideration, and we look forward to having them.

17 So Monday will come and go, but again that was  
18 not a hard line in the sand, it was just a guideline to try  
19 to work within to give us something all to kind of work for  
20 or toward; but understanding that in the new year, when  
21 things start up again, holidays are through, as soon as you  
22 can get your comments in we would appreciate that so that we  
23 can incorporate those into the final. All of your comments  
24 here are appreciated; they will all be addressed, and if you  
25 didn't get the answers here that you were looking for today,  
26

Z-94

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

47

1 we are absolutely going to provide a well-thought out  
2 response, and they will all be addressed in the final.

3 David, did you want to say a few words?

4 MR. HANOBIC: Yes. Just elaborating on what  
5 Kelly just said, basically that NEPA requires that we have a  
6 comment period on the Draft Environmental Impact Statement.  
7 That's a Monday, hard and fast deadline, which states your  
8 comments have to be in by that date, we have to establish  
9 that time period.

10 The FERC process; after that time period we  
11 continue to take comments. What we'll start doing is, once  
12 that comment period ends we start working on the next phase;  
13 our Final Environmental Impact Statement, so that any  
14 comments, if you have comments on stuff, some stuff Kinder  
15 Morgan - Sierrita is supposed to file with us on Monday the  
16 16th. If that stuff is submitted, you have additional  
17 comments, after you review that you can continue to do that.

18 I was speaking with some people after the meeting  
19 the last time, and I just said mid-January, three weeks of  
20 January towards that time frame would be a good time to get  
21 your comments in on additional stuff that's submitted. If  
22 you have additional comments on the Draft EIS, you can  
23 continue to submit them. It's just, at some point as we get  
24 closer to preparation of a Final Environmental Impact  
25 Statement, if we don't have the time to look at it we may  
26

Z-95

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

48

1 not be able to, if it comes in really close to our  
2 preparation, but we do everything we can to address every  
3 comment as much as we can in our process.

4 So I just want to reassure you that if you're a  
5 day or two late, that's not a big deal. If you need an  
6 extra two to three weeks, I'm not extending any formal  
7 deadlines, but your comments will be considered.

PM2-49 8 AUDIENCE: You seem to be avoiding the notion  
9 that the DEIS is flawed --

10 AUDIENCE: Can you speak up, please?

11 AUDIENCE: -- and a supplemental be required.

12 MR. HANOBIC: Can you speak into the mic so  
13 everybody can hear you?

14 AUDIENCE: You've probably considered that a lot  
15 of people in the audience here today think that we're on a  
16 railroad track here, and the train is coming. And there  
17 have been a number of people who have requested a  
18 supplemental and revision of the DEIS. From my perspective,  
19 from my experience, it's deeply flawed; the presumptions in  
20 it are just unique, really unique.

21 So from what you just said, it appears that  
22 you've made up your mind here today already that a  
23 supplemental will not be provided. And we would like to  
24 know under what circumstances and how you're going to  
25 consider preparing a supplemental DEIS to correct these

26

PM2-49 The commenter's statement regarding a supplemental draft EIS is noted.

96-Z

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

49

PM2-49  
(cont'd)

1 problems. Thank you.  
2 MR. HANOBIC: Yes, and to answer your question, I  
3 personally don't, will not make the call on a supplemental  
4 Draft Environmental Impact Statement; that is something that  
5 will be discussed with management. I'm personally speaking  
6 right now on the process as it currently is proposed. So  
7 that's what I can tell you best.

8 AUDIENCE: I know you've established a certain  
9 protocol of this meeting for comments, but there's a  
10 question that I feel really needs to be asked. Are there  
11 representatives of Kinder Morgan here?

12 MR. HANOBIC: Could all the representatives of  
13 Kinder Morgan please raise your hand?

14 (Show of hands)

15 AUDIENCE: Well, I would like to address the  
16 comment that Melissa Owen of the Sierrita Vista made.

17 Is it true that there's a pipeline that's being  
18 dug now, worked on, in Sasabe (inaudible)?

19 AUDIENCE: Yes. You can see it.

20 AUDIENCE: Walk down to the border, you can see  
21 it.

22 AUDIENCE: You're saying yes. I'd like to ask  
23 Kinder Morgan: Is that true?

24 KINDER MORGAN: Yes. It's our understanding that  
25 they are constructing the pipeline in there.  
26

Z-97

PM2 – Public Meeting in Sasabe, Arizona (cont'd)

50

1 AUDIENCE: And can you tell me why --

2 MR. HANOBIC: I have to ask, because the court  
3 reporter's not getting any of this.

4 AUDIENCE: Oh, I'm sorry. I asked Kinder Morgan  
5 if it was true that there is indeed a pipeline being  
6 constructed on the Sasabe, Mexico side. And if that's true,  
7 why is that happening before this has been ruled on by FERC,  
8 and if FERC was aware of that. Was FERC aware that there is  
9 a pipeline being built on the Sasabe, Mexico side?

10 MR. TYGRET: My name is Daniel Tygret (spelling).  
11 I'm with Kinder Morgan - Sierrita.

12 There is a pipeline being built in Mexico now.  
13 The reason why is that they take certain risks; they're  
14 assuming, there's an assumption on their side that we will  
15 be constructing on our side in time to provide them gas at  
16 the border.

17 AUDIENCE: That sounds like an expensive  
18 assumption on their part; why would they be putting all this  
19 money -- why would Mexico be putting all this money into  
20 that building before they know what the final decision is?  
21 I mean, they're putting a lot of money into this.

22 MR. TYGRET: I agree. I agree. There definitely  
23 is -- that's an expensive assumption on their part, yes; but  
24 they will take risks on their side, they will assume -- just  
25 like we are confident that we will build a pipeline and have  
26

86-Z



## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

51

1 a pipeline that will be certificated with conditions that  
2 will allow us to construct this in a time manner that will  
3 hopefully provide them gas in the time that we have  
4 contracted to provide them gas for.

5 AUDIENCE: And where does your assumption come  
6 from? Why are you so sure that Kinder Morgan is going to --  
7 what's that based on?

8 MS. MUNOZ: Ma'am, I have to respectfully ask you  
9 to --

10 AUDIENCE: I'm not trying to be belligerent.

11 MS. MUNOZ: You're not at all.

12 AUDIENCE: These questions are popping up, and I  
13 feel like --

14 MS. MUNOZ: You have legitimate questions.

15 I just respectfully ask you that, the purpose  
16 here was to have your comments regarding the Draft  
17 Environmental Impact Statement, and it's understandable that  
18 everybody here has questions for Kinder Morgan. I  
19 absolutely encourage you to talk to them after the meeting -  
20 -

21 MS. TYGRET: Yes, we'll be back there. Yes, you  
22 can come and talk to us back there.

23 MS. MUNOZ: -- concludes. They're sticking  
24 around; that's the point of them being here. Thank you.

25 The formal part of this meeting will close. As  
26

## PM2 – Public Meeting in Sasabe, Arizona (cont'd)

52

1 most of you are aware within the FERC website there's a link  
2 called eLibrary. If you type in the docket number, CP13-73  
3 you can use eLibrary to gain access to everything on the  
4 record concerning this project as well as the filings and  
5 information submitted by Sierrita.

6 On behalf of the Federal Energy Regulatory  
7 Commission, I want to thank you for coming here today. Let  
8 the record show that the meeting concluded in Sasabe,  
9 Arizona, at 11:25 a.m.

10 (Whereupon, at 11:25 a.m., the public comment  
11 meeting concluded.)  
12  
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Z-100

**FEDERAL AGENCIES  
COMMENTS AND RESPONSES**

# FEDERAL AGENCIES

## FA1 – International Boundary and Water Commission

20131217-5025 FERC PDF (Unofficial) 12/16/2013 5:14:06 PM



### INTERNATIONAL BOUNDARY AND WATER COMMISSION UNITED STATES AND MEXICO

December 16, 2013

Federal Energy Regulatory Commission  
C/O Kimberly D. Bose, Secretary  
Public Reference Room  
888 First Street, NE; Room 2A  
Washington, DC 20426

RE: Review of the Draft Environmental Impact Statement for the U.S. International Boundary and Water Commission for Sierrita Pipeline Project in Arizona, OEP/DG2E/Gas 4, Sierrita Gas Pipeline LLC, Sierrita Pipeline Project, Docket Nos. CP13-73-000 and CP13-74-000

Dear Ms. Bose:

The United States Section, International Boundary and Water Commission (USIBWC) appreciates the opportunity to comment on the draft environmental document for the proposed Sierrita Pipeline project in Arizona. This proposal is to construct a 36-inch-diameter natural gas pipeline in Pima County, Arizona to the United States – Mexico border.

We have identified several actions of the proposed pipeline under the United States – Mexico border and within the Roosevelt Reservation that the USIBWC is party to. The Roosevelt Reservation is a demarcation of 60-feet from the border, north which no building shall occur.

Please provide some additional information to the following questions:

- FA1-1 | 1. The pipeline is to hold a pressure at maximum of 1440 psi, what are the mitigation steps under the border for this and in the USIBWC areas?

Section 4.3.1.7, Blasting:

- FA1-2 | 1. Blasting is expected to be used adjacent to the International Border at pipeline MP 59.0, how is this going to impact Roosevelt Reservation? Will monitors inspect our monuments after blasting for damage from the result of this action?
- FA1-3 | 2. Based on the geological studies, is bedrock expected under the International Border? If so, is blasting expected to be used rather than horizontal drilling?

The Commons, Building C, Suite 100 • 4171 N. Mesa Street • El Paso, Texas 79902-1441  
(915) 832-4100 • Fax: (915) 832-4190 • <http://www.ibwc.gov>

FA1-1 As discussed in section 4.13.1, the Project facilities would be constructed and operated in accordance with DOT *Minimum Federal Safety Standards* in 49 CFR 192. The DOT regulations specify material selection and qualification; minimum design requirements; and protection from internal, external, and atmospheric corrosion.

FA1-2 Based on information from Sierrita, blasting would occur outside the Roosevelt Reservation and, therefore, the reservation would not be affected by the blasting. Sierrita would employ monitors to inspect border monuments after blasting has occurred.

FA1-3 Sierrita would use the bore crossing method to install the pipeline at the U.S.-Mexico border, which is described in section 2.3.2.3. Based on information provided by Sierrita, bedrock conditions requiring the use of blasting are not anticipated under the immediate International Border crossing.

101-Z

## FA1 – International Boundary and Water Commission (cont'd)

20131217-5025 FERC PDF (Unofficial) 12/16/2013 5:14:06 PM

2

### Appendix B

- FA1-4 | 1. On page B-17, the proposed Sasabe Delivery Meter Station is displayed adjacent to the International Boundary, how big is the meter station and where is it proposed to be placed within the proposed footprint?
- FA1-5 | 2. Is the location of the meter station on the Roosevelt Reservation?

### Appendix J

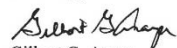
- FA1-6 | 1. Page J-1, Section C, "No blasting will occur within 10 feet of existing pipelines or other structures", if blasting is to occur within proximity to the international border is there any precautionary measures that will take place. Does notification have to be provided to the neighboring country and vise versa?
- FA1-7 | 2. Page J-5, Environmental Concerns, U.S. Section of IBWC would request notification at least 2 weeks in advance of any blasting within the border limits, in order to inform the Mexican Section of the upcoming blasting events, if any.

### Appendix K

- FA1-8 | 1. A crossing diagram should also be provided for the proposed boring to happen under the International Border.

If you have any questions regarding the information provided, please contact the USIBWC Cultural Resources Manager, Mark Howe at (915) 832-4767 or by email to [mark.howe@ibwc.gov](mailto:mark.howe@ibwc.gov). or Civil Engineer, Jesus Heredia (915) 832-4147 or by email to [Jesus.Heredia@ibwc.gov](mailto:Jesus.Heredia@ibwc.gov).

Sincerely,



Gilbert G. Anaya  
Division Chief  
Environmental Management Division

FA1-4

As listed in table 2.2.2-1, the Sasabe Delivery Meter Station site would occupy a 400-foot by 400-foot area, affecting 4.4 acres during construction and operation. The meter station site is also shown on the appendix B route maps.

The exact layout of the meter station facilities is considered Critical Energy Infrastructure Information and, therefore, was not included in the EIS. Sierrita would apply for all necessary federal, state, and local permits prior to construction. FERC staff expects that information necessary by the IBWC to process Sierrita's permit application (and that is in addition to that described in the EIS), such as an exact facility location within a proposed construction and operation footprint, would be requested of Sierrita by the permitting agency during the permitting process.

FA1-5

The Sasabe Delivery Meter Station would not be within the 60-foot-wide Roosevelt Easement.

FA1-6

As discussed in section 4.1.3.2, blasting may be required near the U.S.-Mexico border; however, Sierrita intends to install the pipeline under the International Border using the bore crossing method. If blasting does occur, regardless of location, Sierrita would comply with all federal and state regulations governing the use of explosives and fugitive dust control measures. Precautionary measures that Sierrita would adhere to at blasting locations are described in its *Blast Plan*.

We are not aware of any requirements to contact a neighboring country of blasting activities in proximity to an International Border. Sierrita would notify the appropriate landowners and land-managing agencies in accordance with its *Blast Plan*.

FA1-7

Based on information from Sierrita, blasting is not anticipated within proximity to the International Border. However, Sierrita committed to notifying the IBWC at least 2 weeks in advance of any blasting within the border limits.

FA1-8

Based on information from Sierrita, a preliminary crossing plan, which included a crossing diagram, was submitted to the IBWC on September 20, 2013. Also, Sierrita filed alignment sheets with the FERC showing the Project facilities most recently in December 2013.

Sierrita would apply for all necessary federal, state, and local permits prior to construction. FERC staff expects that information necessary by the IBWC to process Sierrita's permit application (and that is in addition to that described in the EIS), such as a diagram of the proposed boring layout, would be requested of Sierrita by the permitting agency during the permitting process.

Sierrita noted that a final crossing plan (including the requested crossing diagram and engineering plans) would be submitted to the IBWC for approval prior to construction.

Z-102

# FEDERAL AGENCIES

## FA2 – U.S. Environmental Protection Agency

20131224-0015 FERC PDF (Unofficial) 12/24/2013



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105

December 16, 2013

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

FILED  
SECRETARY OF THE  
COMMISSION  
2013 DEC 24 A 8:56  
FEDERAL ENERGY  
REGULATORY COMMISSION

CEQ-13

Subject: Draft Environmental Impact Statement for the Sierrita Pipeline Project, Pima  
County, Arizona (CEQ # 20130315)

Dear Ms. Bose:

The U.S. Environmental Protection Agency has reviewed the Draft Environmental Impact Statement for the Sierrita Pipeline Project (Project) pursuant to the National Environmental Policy Act, Council on Environmental Quality regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act.

Based on our review of the DEIS, we have rated the proposed action and the document as *Environmental Concerns – Insufficient Information* (EC-2) (see the enclosed “Summary of EPA Rating Definitions”). The EPA is primarily concerned about potential impacts to aquatic resources associated with ephemeral wash crossings. The ephemeral washes of the Altar Valley contain vital riparian habitat that sustains several sensitive species, including many federally listed species, and would be difficult to restore. We recommend that the Final EIS include a jurisdictional delineation of waters of the U.S., and clarify the applicability of Clean Water Act section 404 permitting requirements to the proposed project. We also recommend that the FEIS affirm the strong additional mitigation measures, proposed by Federal Energy Regulatory Commission in the DEIS, to avoid and minimize impacts to riparian habitat, and include them as required mitigation actions in the Record of Decision.

We appreciate the inclusion of a Fugitive Dust Control Plan in the DEIS, as well as the estimate of construction-related greenhouse gas emissions. We recommend that the FEIS also include additional mitigation measures to reduce construction-related air pollution, a more comprehensive assessment of the Project’s projected greenhouse gas emissions, and a discussion of how climate change may affect the Project. Our detailed comments are enclosed.

We appreciate the opportunity to review this DEIS, and are available to discuss our comments. When the FEIS is released, please send one CD copy to this office (specify Mail Code CED-2). If you have

FA2-1

See the responses to comments FA2-2 through FA2-5 for responses to the EPA’s specific comments on the draft EIS.

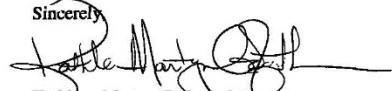
Z-103

**FA2 – U.S. Environmental Protection Agency (cont'd)**

20131224-0015 FERC PDF (Unofficial) 12/24/2013

any questions, please contact me at 415-972-3521, or contact Jason Gerdes, the lead reviewer for this project. Mr. Gerdes can be reached at 415-947-4221 or [gerdes.jason@epa.gov](mailto:gerdes.jason@epa.gov).

Sincerely,



Kathleen Martyn Goforth, Manager  
Environmental Review Office

Enclosures: Summary of EPA Rating Definitions  
EPA Detailed Comments

#### SUMMARY OF EPA RATING DEFINITIONS\*

This rating system was developed as a means to summarize the U.S. Environmental Protection Agency's (EPA) level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the Environmental Impact Statement (EIS).

#### ENVIRONMENTAL IMPACT OF THE ACTION

##### *"LO" (Lack of Objections)*

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

##### *"EC" (Environmental Concerns)*

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

##### *"EO" (Environmental Objections)*

The EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

##### *"EU" (Environmentally Unsatisfactory)*

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

#### ADEQUACY OF THE IMPACT STATEMENT

##### *"Category 1" (Adequate)*

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

##### *"Category 2" (Insufficient Information)*

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

##### *"Category 3" (Inadequate)*

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From EPA Manual 1640, Policy and Procedures for the Review of Federal Actions Impacting the Environment



## FA2 – U.S. Environmental Protection Agency (cont'd)

20131224-0015 FERC PDF (Unofficial) 12/24/2013

### U.S. EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE SIERRITA PIPELINE PROJECT, PIMA COUNTY, ARIZONA, DECEMBER 16, 2013

#### Aquatic Resources

##### *Compliance with Section 404 of the Clean Water Act*

The Draft Environmental Impact Statement states that “project-related impacts associated with ephemeral wash crossings are of particular concern to local agencies and stakeholders” (p. ES-4). The EPA shares this concern. The pipeline would cross one perennial, and 206 ephemeral, waterbodies. The potential impacts that would result from these crossings are difficult to ascertain, based on the information provided in the DEIS. The DEIS indicates that the Project construction and maintenance activities would result in temporary impacts on drainages that are likely considered waters of the United States by the U.S. Army Corps of Engineers (Corps), and that Sierrita, the project proponent, has submitted a preliminary determination of jurisdictional waters to the Corps. The DEIS goes on to state that the Corps may issue an individual permit or a nationwide permit for natural gas pipelines that affect wetlands, but that because the Project “would not affect wetlands, a nationwide permit is not required for the Project” (p. 1-16). Please note that the absence of wetlands would not free Sierrita from its potential responsibilities under Section 404, the provision of the Clean Water Act that regulates the discharge of dredged or fill material into waters of the U.S. If the Corps makes the determination that Project activities would result in impacts to jurisdictional waters, then an individual permit or nationwide permit would be required.

##### **Recommendations:**

- The EPA recommends that FERC and Sierrita meet with the Corps to discuss jurisdictional delineation of waters of the U.S. within the proposed Project area, and compliance with Section 404 of the CWA.
- The FEIS should disclose the likely applicability of CWA section 404 to the proposed Project, and include a jurisdictional delineation of waters of the U.S. and an alternatives analysis of the impacts (direct, secondary, and cumulative) to such waters.

#### Biological Resources

The EPA is concerned that the aforementioned 206 ephemeral wash crossings planned for this Project would result in considerable impacts to riparian habitat. The DEIS states that, based on Sierrita's Project-specific delineations and mapping effort, construction of the Project would affect approximately 118.2 acres of riparian habitat (p. 4-66). This projected habitat loss, which includes 26 acres that the Pima County Regional Flood Control District has classified as “important riparian areas,” would result in impacts to several federally listed species, including the lesser long-nosed bat, the Chiricahua leopard frog, and the masked bobwhite quail (p. 5-6). According to the DEIS, FERC is recommending that Sierrita analyze the feasibility of adopting the horizontal directional drill (HDD) method at several locations along the pipeline route, among other measures, to protect sensitive species (p. 5-3). Sierrita has proposed modifications to these protective measures that would exclude the use of several protective and restoration measures at ephemeral washes because these features are “anticipated to be dry at the time of crossing” (p. 5-2). The Commission rebuts this argument, contending that some of Sierrita's proposed modifications “could result in adverse impacts on federally listed species at some ephemeral washes during monsoon rainfalls” (p. 5-2). The EPA agrees and supports FERC's efforts to work with

FA2-2

Although the Project would not affect wetlands, Sierrita would still need to obtain a permit or authorization under section 404 of the CWA for temporary impacts on jurisdictional ephemeral waterbodies (dry washes) based on the COE jurisdictional determination. Section 4.3.2.6 of the final EIS acknowledges that Sierrita would need to obtain a section 404 permit and comply with any conditions imposed by the COE associated with these authorizations. Sierrita filed a preliminary jurisdictional determination with the COE on September 30, 2013 and anticipates a section 404 permit from the COE in April 2014.

FA2-3

Section 4.3.2.6 has been updated to discuss Sierrita's evaluation of crossing dry washes and associated riparian areas using the HDD method to reduce environmental impacts. Section 4.3.2.6 has also been updated to describe Sierrita's Scour and Lateral Bank Migration Analysis completed in coordination with the Pima County RFCD. Sierrita committed to continuing consultations with the Pima County RFCD to finalize appropriate mitigation measures related to wash crossings and riparian habitat.

## FA2 – U.S. Environmental Protection Agency (cont'd)

20131224-0015 FERC PDF (Unofficial) 12/24/2013

FA2-3 (cont'd) | Sierrita to ensure that impacts on riparian habitat, and by extension, to the sensitive species that reside in these areas, would be “minimized to the greatest extent practicable” (p. 4-66).

### **Recommendation:**

The additional mitigation measures proposed by FERC in the DEIS to minimize impacts at ephemeral wash crossings and in riparian areas should be affirmed in the FEIS and attached as conditions to any authorization issued by the Commission. In particular, these include requiring Sierrita to:

- File a feasibility report regarding adoption of the HDD method to cross various riparian areas along the pipeline route;
- Provide site-specific justifications for additional temporary workspaces less than 50 feet from wash crossings and in riparian areas.

### **Air Quality**

The Commission included a Fugitive Dust Control Plan as an appendix to the DEIS. Although EPA supports incorporating such mitigation strategies, we also advocate minimizing disturbance to the natural landscape as much as possible so that the need for measures to reduce fugitive dust is eliminated or minimized. Implementation of additional mitigation measures could reduce the Project's emissions.

### **Recommendations:**

The EPA recommends that the FEIS include the following additional measures to reduce emissions of criteria air pollutants and hazardous air pollutants (air toxics):

- Reduce land disturbance activities as much as possible so that natural, stable soil conditions remain;
- Limit vehicle speeds to 25 miles per hour on stabilized unpaved roads as long as such speeds do not create visible dust emissions;
- Limit vehicle speeds to 10 miles per hour or less on unpaved areas within construction sites on unstabilized (and unpaved) roads;
- Post visible speed limit signs at construction site entrances;
- Develop a construction traffic and parking management plan that maintains traffic flow, and plan construction to minimize vehicle trips;
- Include provisions for monitoring fugitive dust in the fugitive dust control plan and initiate increased mitigation measures to abate any visible dust plumes.

### **Climate Change**

The EPA acknowledges the inclusion of an estimate, in the DEIS, of the greenhouse gas emissions (GHGs) associated with construction of the Project. This disclosure, however, is an incomplete analysis of the climate change implications for this Project. The EPA acknowledges that the Commission is not required to conduct an analysis for the portion of the proposed pipeline that would cross into Mexico. While cognizant of this limitation to your analysis, we feel that a broader assessment of the domestic ramifications of the proposed Project, from a GHG perspective, is warranted.

### **Recommendations:**

- The FEIS should include a comprehensive life-cycle assessment of the greenhouse gas emissions anticipated for the construction and maintenance of the Project, including disclosure of where the natural gas that would feed the proposed pipeline would be sourced and an estimate of the emissions that would be associated with its extraction and transport.

FA2-4

The EPA's comments regarding measures to reduce emissions of criteria air pollutants and hazardous air pollutants are noted. Sierrita would be required to limit its construction footprint to that authorized by the FERC's Order, if approved. Sierrita would also apply for all necessary federal, state, and local permits prior to construction, including applicable road use permits. Specific to air quality, Pima County has its own air pollution control program and operates pursuant to an agreement with the ADEQ. Sierrita would be required to comply with any permit conditions or additional mitigation measures provided in the agency permit, to the extent that non-federal permits do not unreasonably delay or conflict with or prevent implementation of federal requirements/authorizations.

Sierrita's *Fugitive Dust Control Plan* (see appendix J of the final EIS) states that Sierrita would monitor the Project area for fugitive dust generated during construction, and lists mitigation measures to abate any visible fugitive dust.

FA2-5

FERC cannot estimate exactly where the natural gas volumes would come from due to the interconnected nature of interstate natural gas transmission, and how much, if any, would be new production “attributable” to the Project. Sources that could produce gas that might ultimately flow to this Project might be developed in any part of the United States. Therefore, it is impossible and speculative to calculate any GHG emissions or impacts associated with production of the natural gas which would eventually flow through the Project. Section 4.12.1.3 discusses GHGs associated with construction. Section 4.12.1.4 has been updated to discuss estimated GHG emissions from operation of the Project.

Section 4.14.14 has been expanded to include additional discussion related to climate change.

## FA2 – U.S. Environmental Protection Agency (cont'd)

20131224-0015 FERC PDF (Unofficial) 12/24/2013

FA2-5  
(cont'd)

- Given the extreme warming anticipated for the southwestern United States, the FEIS should include a discussion of how climate change may affect the proposed Project, particularly with respect to the restoration efforts for the riparian habitat that would be impacted during construction.
- The FEIS should include a climate change mitigation and adaptation plan.

# FEDERAL AGENCIES

## FA3 – U.S. Department of the Interior

20140117-5228 FERC PDF (Unofficial) 1/17/2014 1:51:51 PM



### United States Department of the Interior

OFFICE OF THE SECRETARY  
Office of Environmental Policy and Compliance  
Pacific Southwest Region  
333 Bush Street, Suite 515  
San Francisco, CA 94104

IN REPLY REFER  
(ER 13/0680)

*Filed Electronically*

17 January 2014

Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, DC 20426

Subject: Notice of Availability of Draft Environmental Impact Statement (DEIS) for the Sierrita Pipeline Project by Sierrita Pipeline LLC (FERC no. CP13-73-000, CP13-74-000); Pima County, Arizona.

Dear Ms. Bose:

The Department of the Interior (Department) is providing comments on the Draft Environmental Impact Statement (DEIS) for the Sierrita Lateral Pipeline Project (Project) by Sierrita Gas Pipeline LLC (Sierrita), Arizona.

The 118,000 acre Buenos Aires National Wildlife Refuge (Refuge) is situated in the southern portion of the Altar Valley (Valley) and was established in 1985 under the authority of the Endangered Species Act (ESA) and for the protection, management, and restoration of endangered species and semi-native desert grasslands. Considering the Refuge is a portion of the Valley, it is critical to work with our neighbors and partners in managing the entire Valley. We have developed valuable working relations with many partners affiliated with the Valley in the interest of restoring the watershed and native grasslands. Therefore, we offer both general and specific comments on the DEIS.

#### General Comments

Although the proposed pipeline right-of-way (ROW) does not cross the Refuge, Sierrita has requested to use Refuge roads for access to the ROW. The Refuge has not yet approved this request, and must first analyze the request through an appropriateness finding and, if appropriate, a compatibility determination would be completed, including a 30-day comment period, before a final decision is made. If approved, a Special Use Permit would be issued to Sierrita for the use of Refuge roads. This process is scheduled to be completed by March 2014, but we need to better understand the construction schedule. The DEIS states there will be an 8-month construction period; however, Sierrita has relayed to the Refuge the construction period will only

FA3-1

FA3-1

Based on clarification from Sierrita, the Project would be constructed during a 4- to 5-month period. Sierrita's proposed in-service date has not changed.

601-Z

## FA3 – U.S. Department of the Interior (cont'd)

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- FA3-1 (cont'd) require 4 months. We recommend providing more clarity regarding this determination in the Final DEIS.
- We are concerned about the short- and long-term environmental impacts this Project will have both on and off the Refuge. The entire 25 miles of the Refuge lies within the watershed of the Project and will likely experience impacts related to sedimentation and erosion in the uplands and drainages along east-west roads, and State Highway (SH) 286. If this Project moves forward, restoration and monitoring of the area impacted by this Project is critical and conditions should be in place for Sierrita to adhere to the best restoration practices possible. Restoration is essential within the ROW, along the access roads, and above and below the ROW, and in over 200 drainages that fall within the Project area. It is critical that the restoration plans submitted by the Project proponents are sufficient and include specific measures for the ROW, drainages, and roads. We recommend Sierrita commit to restoring these areas for the life of the Project, and utilize contractors who have experience working on southwest desert landscapes. Many pipeline projects throughout the country have not been restored properly and remain as wide, long strips of bare ground across the landscape, and we want to prevent this from happening in the Valley.
- FA3-2 We also recommend Sierrita use an adaptive management approach and adjust any plans that may improve restoration practices, if certain strategies are not as successful.
- FA3-3 The DEIS states restoration and monitoring of the ROW will be for 5 years; however, we believe a commitment by Sierrita to monitor and restore the ROW and roads should be for the life of the Project. Considering the arid environment, we recommend well defined benchmarks to establish when/if successful restoration is complete. Monitoring should include assessments of vegetation, erosion on the ROW and adjacent to it, watershed health, cultural resources, unauthorized access, and habitat and wildlife movement. Our vision is to see Sierrita fully succeed in restoring the ROW so it can be used to showcase a true example of partnering and restoration for a utility corridor.
- FA3-4 We are concerned that the Project may facilitate erosion where the pipeline ROW crosses drainages potentially causing substantial off-ROW impacts to habitat. We recommend Sierrita address the prevention of erosion, including considering boring under some of the drainages in the Project area. This will help maintain the integrity of the drainage banks and vegetation and reduce erosion, while serving as a natural barrier reducing the potential of the ROW becoming a north-south road for vehicular or border related traffic.
- FA3-5 Invasive species are also a concern from this project. Buffelgrass and other invasive plant species have recently been found in the Valley, and the Refuge has an active invasive species control program that is effective in controlling the spread of these plants. With construction scheduled to occur during the monsoon season, we are concerned about the spread of invasive species. Although Sierrita would be required to clean equipment between sites, this may be impossible during the rainy season due to excessive mud build-up in vehicles and equipment making it difficult to remove. We recommend Sierrita employ strict measures to reduce and avoid the introduction and/or spread of invasive species resulting from activities associated with the Project.

FA3-2

See response to comment PM1-17. Section 4.8.2.1 addresses potential direct and indirect impacts on the BANWR.

Sierrita would continue annual monitoring until the FERC and/or the BANWR determines that the restoration and revegetation goals have been achieved (i.e., that a plant cover has been established similar to that of the areas adjacent to the Project right-of-way that were not disturbed by Project construction). In addition, Sierrita would complete restoration activities and monitoring as specified in its easement agreements with the individual landowner or land-managing agency. If it is determined that restoration and revegetation is not successful, Sierrita would meet with the FERC and other appropriate agencies to identify and evaluate problem areas to determine the reason for the lack of success. In other words, the BANWR would have the authority to determine the success of restoration of access roads within refuge boundaries and any disturbance related to those access roads.

Furthermore, the FERC would continue its oversight of the Project area after construction by conducting its own compliance inspections. The FERC would require Sierrita to continue its revegetation efforts until the FERC determines that restoration is successful, which, as noted throughout the EIS, may take decades.

The DOI's comment regarding using contractors with southwest desert landscapes for Sierrita's consideration is noted.

FA3-3

Section 6.0 of Sierrita's revised *Post-Construction Vegetation Monitoring Document* includes details on Sierrita's proposed adaptive management approach. Sierrita committed to adopting an adaptive management strategy to achieve successful revegetation based on the performance criteria outlined in the *Post-Construction Vegetation Monitoring Document*.

FA3-4

Section 6.0 of the *Post-Construction Vegetation Monitoring Document* establishes the performance criteria and metrics that Sierrita would adhere to during monitoring to determine revegetation success. Sierrita would continue annual monitoring until the FERC and/or the BANWR determines that the restoration and revegetation goals have been achieved. In addition, Sierrita would complete restoration activities and monitoring as specified in its easement agreements with the individual landowner or land-managing agency.

As committed to in section 7.0 of its *Reclamation Plan*, Sierrita would monitor the Project for erosion and stabilization issues on a monthly schedule following construction. Sierrita would conduct inspections of the right-of-way both from the air and during general pipeline maintenance on the ground over the lifetime of the Project. If there are erosion and stabilization issues that are noted and require attention, Sierrita's Operations and Land Department would coordinate with the landowner or land-managing agency to address site-specific issues. Further, if an issue or concern is identified by a landowner or land-managing agency, Sierrita can be contacted directly at 1-877-598-5263.

## FA3 – U.S. Department of the Interior (cont'd)

- FA3-4  
(cont'd) Furthermore, the FERC would continue its oversight of the Project area after construction by conducting its own compliance inspections. The FERC would require Sierrita to continue its revegetation efforts until the FERC determines that restoration is successful, which, as noted throughout the EIS, may take decades to occur.
- FA3-5 Sierrita would also restore the contours of the Project area, including dry washes, following construction to prevent the creation of new drainage patterns.
- Section 4.8.1.1 notes that boring might serve as an alternative construction method at certain features; however, the method requires ATWS beyond the construction right-of-way, which would increase the overall area disturbed by the Project. Also, section 4.3.2.6 has been updated to include a discussion of Sierrita's evaluation of crossing dry washes and riparian habitat using the HDD method.
- Also see response to comment PM1-21.
- FA3-6 Section 4.4.8 and Sierrita's *Noxious Weed Control Plan* includes a detailed discussion of how noxious weeds would be controlled during construction activities and during reclamation. Also, section 6.0 of the *Post-Construction Vegetation Monitoring Document* includes a discussion of the performance criteria related to noxious weeds. We note that additional protections on federally managed lands could be required by the BANWR.

## FA3 – U.S. Department of the Interior (cont'd)

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FA3-7 Fire can be used as a habitat management tool to improve grassland conditions; however, if not correctly planned, it can result in significant ecological effects to the Valley. With prevailing winds from the southwest, the Refuge is at risk if a fire starts along the pipeline ROW. We recommend Sierrita implement best management practices to reduce fire potential during construction and ensure comprehensive communication with Refuge fire and law enforcement programs.

FA3-8 It is our preference that other alternate routes be further investigated. Although alternate routes were analyzed in the DEIS, it is concerning that Sierrita did not pursue alternate pipeline "connecting points" with Mexico other than Sasabe, Arizona. Alternate "connection points" should be considered and investigated further because utility corridors already exist that would be more conducive for this Project. The Valley is a unique, undeveloped watershed made up of various landowners committed to protecting and managing the landscape as healthy, open space. The Refuge remains committed to working with our partners to do all we can to protect, restore, and maintain the health of the Altar Valley watershed.

FA3-9 For the various alternative routes discussed in the DEIS, please evaluate whether a comparison of all the appropriate threatened and endangered species and their critical habitats were evaluated. Some of these alternatives cover habitats used by different threatened or endangered species than the routes being evaluated in the Altar Valley. For example, some of the western alternatives occur in areas occupied by the Sonoran pronghorn or may be in proximity to lesser long-nosed bat roosts. Other alternatives appear to have omitted potential effects to the Chiricahua leopard frog and its critical habitat or effects to the candidate species, Tucson shovel-nosed snake. We understand these comparison tables addressed only proposed or designated critical habitat, but we recommend effects to the species themselves be considered, especially for species that do not have designated critical habitat. We believe it is important to adequately compare these alternative route alignments with regard to threatened and endangered species effects.

FA3-10 We also recommend a more substantial discussion on cumulative effects as defined by the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 *et seq.*). NEPA defines cumulative impacts as "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time" (40 CFR 1508.7). Past and present effects to discuss in the cumulative effects analysis include fire (both prescribed and wild), border activities (both illegal and enforcement), drought and climate change. Customs and Border Protection's (CBP) proposed improvements known as Baboquivari road should also be considered in cumulative effects. The current discussion focuses on discrete projects and not past, present, or reasonably foreseeable future actions. Please see enclosed Migratory Bird Conservation Actions for Pipeline Projects.

### Specific Comments

FA3-7 Section 4.4.8.2 (Fire Regimes) addresses fire prevention management proposed by Sierrita.

FA3-8 See response to comment PM1-4.

FA3-9 The alternative discussion in section 3.5 has been updated to discuss the potential for presence of threatened and endangered species.

FA3-10 Section 4.14 has been updated to include the additional cumulative impacts identified by the DOI's comment.

## FA3 – U.S. Department of the Interior (cont'd)

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- FA3-11 Page ES-4, Waterbody Crossings, Paragraph 3: Please note these areas will not be dry if construction occurs between late June and September. Construction during the monsoons will have increased environmental damage due to the wet soils, and equipment may get stuck which would delay the project. It may also be difficult to clean the equipment thoroughly between sites, which may increase the spread of invasive species.
- FA3-12 Page ES-4, Vegetation, Wildlife, Paragraph 1: Impacts will not be limited only to access roads on the Refuge. The project is upslope from the refuge and has the potential of causing erosion and sedimentation in earthen tanks, increasing the spread of invasive plants, degrading the conditions of roads and encouraging trespass cattle on the Refuge.
- FA3-13 Page ES-6, Land Use and Visuals, Paragraph 1, 2<sup>nd</sup> sentence: It is not accurate to state the proposed ROW is co-located with existing utility lines. The ROW is adjacent to existing ROWs and the highway, and will be fragmenting undisturbed land. We recommend Sierrita pursue working within existing ROWs.
- FA3-14 Page 1-18, Table 1.5-1, Major Permits, FWS-BANWR, Agency Action and anticipated date: The use of Refuge access roads would not be temporary; they would be used for long-term operations. We anticipate a Final Compatibility Determination and Special Use Permit by March 2014.
- FA3-15 Page 2-5, Access Roads: The DEIS states none of the 11 Refuge roads will be widened. At the request of the Refuge, Sierrita has agreed to eliminate Road 26A due to its ruggedness, narrowness, and significant archaeological sites.
- FA3-16 Page 2-9, Construction Procedures, last paragraph: Price Gregory is developing the Security Plan and coordinating with CBP and local law enforcement agencies, including the Service, Arizona Game and Fish Department, and Pima County. We recommend there be a sound communications plan in place during construction for all law enforcement parties involved.
- FA3-17 Page 2-14, Cleanup and Restoration, 4<sup>th</sup> paragraph: Timing of reseeded is dependent on the time of year and measures taken to ensure the seeds are secure from wind, ants, and rodents. We recommend restoration matting be placed to protect seed.
- FA3-18 Page 2-15, Cleanup and Restoration, 1<sup>st</sup> paragraph: Aerial seeding is not acceptable anywhere on the ROW. The Refuge is adjacent to and downstream from the ROW where Sierrita is proposing aerial seeding. We recommend the seeding be placed directly on the ROW and secured with matting to protect it from wind and herbivores.
- FA3-19 Page 2-19, Construction schedule..., 1<sup>st</sup> paragraph: If the start date is delayed and the "in service" date remains the same, this would narrow the construction period and increase the number of employees and equipment per day. This could affect the impacts analysis for the compatibility determination and the biological opinion.
- FA3-20 Page 3-1, Alternatives, 1<sup>st</sup> paragraph: The DEIS states alternatives are being considered due to the required Sasabe connection point. We believe alternate connection points should be analyzed

- FA3-11 It is our understanding that monsoons do not occur every day or throughout the day. Rainfall amounts average less than 17 inches annually in the Project area, with rain typically occurring in short durations of high intensity that may result in runoff/flash flooding.
- It is noted that equipment may become stuck if constructing in saturated soils. Section 6.0 of Sierrita's *Noxious Weed Control Plan* describes how equipment would be cleaned prior to and during work along the right-of-way to avoid the spread of noxious weeds.
- Also see response to comment PM1-22.
- FA3-12 Section 4.8.2.1 addresses potential indirect impacts on the BANWR from the Project.
- FA3-13 The Executive Summary (Land Use and Visual Resources) has been updated to clarify that the pipeline route "is generally parallel to and within about 250 feet of" existing rights-of-way.
- FA3-14 Table 1.5-1 has been updated accordingly.
- FA3-15 Based on clarification from Sierrita, Sierrita agreed to eliminate access road 26A from the Project. The applicable sections and tables of the EIS have been updated to reflect this change.
- FA3-16 The DOI's comment regarding developing and implementing a communications plan in coordination with Sierrita on its Security Plan is noted.
- FA3-17 In response to our recommendations in the draft EIS, Sierrita revised its *Reclamation Plan* and *Post-Construction Vegetation Monitoring Document* to clarify seeding mixtures, rates, and time periods based on the seeding method it would adopt at various locations along the route.
- Sierrita would not apply mulch, matting, or other protection measures following aerial seeding due to the inaccessibility of the right-of-way following roughening techniques. Aerial seed rates would be doubled and applied by helicopter at a height of 10 to 20 feet above the roughened right-of-way. In addition, approximately 75 percent of the hydro axed vegetation would be blended into the topsoil and would serve as a functional mulch to reduce wind and water erosion potential, thereby minimizing seed loss. Furthermore, if it is determined after two growing season that portions of the right-of-way that were aerially seeded were not trending toward success, Sierrita would implement adaptive management strategies as outlined in its *Post-Construction Vegetation Monitoring Document*.
- FA3-18 The DOI's comment regarding the aerial seeding is noted. Also see response to comment FA3-17.



### FA3 – U.S. Department of the Interior (cont'd)

- FA3-19      Based on clarification from Sierrita, the Project would be constructed during a 4- to 5-month period. Sierrita's changed construction schedule would not affect the number of construction spreads, construction personnel, or other construction-related impacts such as equipment vehicles along Highway 286.
- FA3-20      See response to comment PM1-4.

## FA3 – U.S. Department of the Interior (cont'd)

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- FA3-20 (cont'd) in the DEIS and Sierrita should engage Mexico on this issue. It is unclear why Kinder Morgan did not pursue another connection point in the pre-project planning stages.
- FA3-21 Page 3-6, East Alternative, 4<sup>th</sup> paragraph: The Refuge was established under the authority of the ESA and is managed for endangered species, and semi-desert grassland restoration.
- FA3-22 Page 4-14, Soils, 1<sup>st</sup> paragraph: Please note ephemeral washes will not be dry if construction takes place in late June through mid-September. Uplands and drainages will be negatively impacted if wet during this time and a greater risk exists for the spread of invasive plant species.
- FA3-23 Page 4-18, Flash Flooding..., 2<sup>nd</sup> paragraph: If construction commences in the rainy season (late June through mid-September), uplands can become saturated and equipment is at risk of getting stuck, which could disturb lands even more. It is also harder to properly clean equipment during this time due to the buildup of mud, which also increases the likelihood for the spread of invasive species.
- FA3-24 Page 4-19, Spill Prevention: We recommend a spill response plan along with a hazmat communication plan. Please include the Refuge in this discussion as the Refuge is downslope of the ROW and could be impacted if a spill should occur.
- FA3-25 Page 4-21, Soils, in bold: We recommend construction not take place during the June through September time frame. The intensity and volume of monsoonal rains can create very soft, sticky soils and on-site equipment has a high potential of getting stuck and/or tearing up the landscape more than if work is completed during a drier time period. In addition, the sticky soils can make cleaning equipment difficult, increasing the chance of spreading of invasive plants. The topsoil will be difficult to protect during the rains and the trenches may fill up with water, which can delay the project. We recommend avoiding construction during the monsoon season.
- FA3-26 Page 4-52, Vegetation, 2<sup>nd</sup>/3<sup>rd</sup> paragraphs: The Refuge was established under the authority of the ESA and is managed for endangered species and for semi-desert grassland restoration. Although off Refuge, the proposed ROW is adjacent to and downslope from the Refuge and could potentially adversely affect the Refuge and is in conflict with the Refuges' Comprehensive Conservation Plan and its mission.
- FA3-27 Page 4-59, Section 4.4.8, Vegetation Construction Impacts and Mitigation: The last paragraph on this page states access road use may facilitate seed dispersal from surrounding undisturbed areas. We believe this is more likely the case for invasive species than native species.
- FA3-28 Page 4-71, Fire Regimes: If the construction period takes place in the fall instead of during the summer months, the prescribed burns scheduled on- or off-Refuge would not be impacted. Most prescribed burns in the Valley take place in late May/early June.
- FA3-29 Page 4-91, Wildlife, top of page: We recommend mitigation for wildlife collisions, which can be accomplished by converting the 286 ROW fence to a wildlife friendly fence where the pipeline ROW parallels the highway.

- FA3-21 Section 3.5.1 has been updated to reflect that the BANWR was established under the authority of the ESA and is managed for endangered species as well as semi-desert grassland restoration.
- FA3-22 See responses to comments PM1-22, FA3-6, and FA3-11.
- FA3-23 See responses to comments PM1-22, FA3-6, and FA3-11.
- FA3-24 We agree that Sierrita should include the BANWR in discussions of spills. Sierrita would implement the preventative measures identified in its SPCC Plan for the Project (see appendix O of the final EIS) to adequately minimize the potential for and consequences of a spill during construction of the Project. If a spill were to occur, Sierrita would be required to implement the clean-up measures identified in its SPCC Plan.
- FA3-25 The DOI's recommendation regarding the Project schedule is noted.
- FA3-26 Section 4.4.2 has been updated to clarify under what authority the BANWR was established and notes the DOI's comment regarding conflict with the BANWR's CCP. Section 4.4.8 describes potential indirect impacts of the Project on the BANWR. Section 4.8.2.1 addresses potential indirect impacts on the BANWR and notes the DOI's comment regarding conflict with the BANWR CCP.
- FA3-27 The referenced information indicates that seed dispersal is facilitated for both native and non-native species; however, the FERC acknowledges that non-native species are also spread via the use of access roads, as discussed in section 4.4.5.
- FA3-28 Section 4.4.6 has been updated to note the general schedule of prescribed burns. As stated in section 4.4.8.2 (Fire Regimes), prior to construction, Sierrita's land management and operations staff would coordinate with local land-managing agencies and landowners to discuss the schedule and procedures for prescribed fires in the vicinity or across the Project area.
- FA3-29 The potential for indirect impacts from wildlife collisions with vehicles on wildlife is acknowledged.
- Also see response to comment PM1-24.

## FA3 – U.S. Department of the Interior (cont'd)

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- FA3-30 Page 4-92 and 4-93, Section 4.5.5 Predators, Furbearers, Game Birds, and Small Game Species: The discussion related to waterfowl should acknowledge stock tanks are used by waterfowl and are regularly hunted at stock tanks during the appropriate seasons. It is also important to note in section 4.5.5, home ranges and movement areas are typically smaller for this group of species than for larger species, such as deer or javelina. Therefore, the Project has the potential to impact entire home ranges for groups like small mammals or reptiles, and has a much more significant impact on movements by these smaller species. Impacts from habitat loss and fragmentation may be much more significant for these species. The issue discussed on page 4-93 related to the construction of the proposed pipeline making currently more remote and inaccessible areas more accessible is an important point. This issue of increased human activity and disturbance is an issue for threatened and endangered species as well, and it is not restricted to hunting activities.
- FA3-31 Page 4-93, Wildlife, top of page: Considering that less hunters utilize GMU 36C, the Refuge recommends construction occur during hunting season in Fall/Winter rather than the monsoon season.
- FA3-32 Page 4-118, T&E Species, third bullet: We recommend Refuge staff be the only qualified personnel to identify masked bobwhite.
- FA3-33 Page 4-127, Desert Tortoise: The species is also located in Brown Canyon and in the Altar Valley grasslands.
- FA3-34 Page 4-142, Table 4.7.2-1: We are aware of nesting crested caracaras both east and west of SR 286 in the vicinity of King's Anvil Ranch. We recommend monitoring of known raptor stick nests in the vicinity of the project to verify nesting crested caracaras.
- FA3-35 Page 4-156, Access Roads, 1<sup>st</sup> paragraph: The sentence states "several" roads. We recommend stating the exact number of roads.
- FA3-36 Page 4-157, Table 4.8.2-1, USFWS, Op: Please clarify the statement, "0 miles of road use under operational." Sierrita has proposed to use Refuge roads for long-term operations as well.
- FA3-37 Page 4-158, Land Use, Federal Lands, bottom of page: There are some Refuge roads where Pima County holds a ROW dating back prior to the Refuge acquisition. Please note the Refuge does not lease this land to Pima County nor to the State of Arizona.
- FA3-38 Page 4-181, Socioeconomics, Transportation: We recommend working with Arizona Department of Transportation to address potential impacts the construction equipment/vehicles may have on Highway 286. The road is only chip sealed and gets torn up by heavy equipment.
- FA3-39 This section states there will be an 8-month construction period; however, Sierrita told the Service on numerous occasions the construction phase is only 4 months. This will affect how the Service analyzes the impacts. Will this increase the number of vehicles/equipment/workers per day?

- FA3-30 Sections 4.5.5 and 4.5.6 have been updated to note the DOI's comments regarding impacts on small game species.
- FA3-31 The DOI's comment regarding the construction period in GMU 36C is noted. Table 4.5.4-1 lists the associated hunting season.
- FA3-32 Section 4.7.1.4 has been updated to state that the biological monitors will notify the BANWR staff for positive identification of suspected bobwhite quail should observations be made during construction on access roads within the BANWR and within bobwhite quail suitable habitat between MPs 35 and 59.
- FA3-33 Section 4.7.1.7 has been updated to note the habitat of the Sonoran desert tortoise.
- FA3-34 Table 4.7.2-1 has been updated to note the presence of crested caracaras. In section 4.5.7 Sierrita committed to conducting pre-construction surveys to document local occurrences of nesting birds, including raptors.
- FA3-35 Section 4.8.1.4 has been updated to clarify the number of roads.
- FA3-36 Based on clarification from Sierrita, it would not permanently modify or maintain roads on the BANWR. However, it would use existing roads to access the permanent right-of-way as needed.
- FA3-37 Section 4.8.2.1 has been updated to note that for some refuge roads, Pima County holds a right-of-way that was established prior to the creation of the BANWR.
- FA3-38 As stated in section 4.10.4, Sierrita would coordinate with state and local departments of transportation and land-managing agencies to obtain the required permits to operate trucks on public roads. If damages occur as a direct result of Project-related activities, Sierrita would repair them as appropriate and in accordance with the applicable permit or requirements.
- FA3-39 Based on clarification from Sierrita, the Project would be constructed during a 4- to 5-month period. Sierrita's changed construction schedule would not affect the number of construction spreads, construction personnel, or other construction-related impacts such as equipment vehicles along Highway 286.

## FA3 – U.S. Department of the Interior (cont'd)

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- FA3-40 The estimate for number of visitors to the Refuge includes the Arivaca area, so the 88/300 is not accurate. The number of Refuge visitors on SH 286 during the summer months ranges from 0 to 10 per day, on average.
- FA3-41 Page 4-187, Socioeconomics, paragraphs 4 and 5: Immigrants could perceive the ROW as an area where they could be easily detected and in order to avoid detection, the potential exists for them to travel onto the Refuge. Immigrant traffic could increase as a result of the pipeline ROW with results in increased environmental damage. Refuge visitation has been stable during the day, but overnight camping has decreased due to border issues.
- FA3-42 Page 4-219, Cumulative Impacts: We are concerned about cumulative impacts resulting from implementation of the Project. Due to border issues and the infrastructure put in place as a result, the Valley continues to experience impacts related to border activities. The addition of a pipeline ROW increases the deterioration of the aesthetics and natural resources in the Valley.
- FA3-43 Page 4-224, Cumulative Impacts: Please clarify the summary paragraph. While the environmental conditions in the Valley are not the same as pre-settlement conditions, it does not mean there are not cumulative effects associated with this Project.
- FA3-44 Page 4-231, Section 4.14.6, Wildlife: Please revise the final paragraph on this page. The fact that a variety of wildlife habitats exist outside of the Project areas does not reduce the cumulative effects of the Project. An extensive linear project such as this affects the ability of wildlife to access and use habitat even if they are available. The effects of the Project on wildlife are not about just removing some portion of their available habitat. The effects are more about how wildlife will be able to use the available habitat once this pipeline has been constructed. Cumulative effects related to habitat fragmentation, increased human activity, increased invasive species and affects to hydrology are all real effects that will occur regardless of the amount of available habitat.
- FA3-45 Page 4-232, Section 4.14.8, Special Status Species: Same comment as on page 4-231. Please also note some border activities and infrastructure have been waived and are not consulted on via Section 7 of the ESA.
- FA3-46 Page 4-235, Cultural Resources: A significant number of cultural resource sites have been located adjacent to and within Refuge roads. Protection of these sites is important and will be further evaluated in the road compatibility decision to be complete in March 2014.
- FA3-47 Page 4-237, Section 4.14.14, Climate Change: The conclusion statement on this page appears to draw the conclusion there will be long-term cumulative effects, but does not state what it means for the Project or what measures will be taken to address these long-term cumulative effects. We recommend if the conclusion is there are long-term cumulative effects, the DEIS needs to include a discussion about what that means and how they will be addressed or how that contributes to the overall findings.
- FA3-48 Appendix E, Page 5, V.B.1: Time windows as discussed in this section may exist for this Project. While no fisheries are involved, xeroriparian washes and stock tanks provide enhanced

- FA3-40 Section 4.10.4 has been updated to clarify the number of visitors to the BANWR.
- FA3-41 Sections 4.8.2.1 and 4.10.6 have been updated to acknowledge the DOI's comments regarding the impacts from undocumented immigrants.
- FA3-42 Section 4.14.10 has been updated to include the DOI's concerns regarding border issues.
- FA3-43 We agree that the Project would result in cumulative impacts on resources. The referenced paragraph provides a summary of the discussion regarding the environmental setting. Sections 4.14.1 through 4.14.14 address cumulative impacts of the Project when combined with other past, present, and reasonably foreseeable projects and actions by resource; section 4.14.15 provides conclusions regarding the cumulative impacts of the Project.
- FA3-44 Section 4.14.6 has been updated accordingly.
- FA3-45 Section 4.14.8 has been updated accordingly.
- FA3-46 The DOI's comment regarding cultural sites near and adjacent to refuge roads is noted. As discussed in section 4.11.1, Sierrita would avoid impacts on cultural resources that are eligible for listing on the NRHP with the use of fencing, monitoring during construction, and limiting certain improvements at the roads (e.g., no road widening, no grading).
- FA3-47 The long-term impacts on climate change would result from the emissions associated with the end use (electric generation facilities). These would be experienced in Mexico and are subject to that country's rules and regulations. Section 4.12.1.4 and 4.14.14 have been updated to address operational GHG emissions and cumulative effects on GHG.
- FA3-48 As described in section 4.5.7, Sierrita consulted with the FWS-AESO with regards to impacts on migratory birds and migratory bird habitat involving raptors and raptor nesting activity. Sierrita developed and committed to mitigation measures to address these impacts in coordination with the FWS-AESO; therefore, the FERC has met the obligations of the FERC and FWS' MOU regarding the implementation of Executive Order 13186.

**FA3 – U.S. Department of the Interior (cont'd)**

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FA3-48  
(cont'd) tree and shrub growth which supports raptor nesting in these areas. Active raptor nests may need to be seasonally avoided to comply with the Migratory Bird Treaty Act. Please refer to Attachment 1 (Migratory Bird Program Position on Pipeline Construction Projects) for further information.

We appreciate the opportunity to review the Draft EIS. If you have any questions or need additional information, please contact Steve Spangle, Supervisor, Arizona Ecological Services Field Office, Phoenix, Arizona, at 602-242-0210 or Sally Gall, Refuge Manager, Buenos Aires National Wildlife Refuge, Sasabe, Arizona, at 520-823-4251.

Sincerely,



Patricia Sanderson Port  
Regional Environmental Officer

cc:  
Director, OEPC  
OEPC Staff Contact: Shawn Alam  
Refuge Manager, Buenos Aires NWR, Sally Gall

Enclosures:  
Migratory Bird Program Position on Pipeline Construction Projects  
Suggested Priority of Migratory Bird Conservation Actions for Pipeline Projects, U.S. Fish and Wildlife Service, Migratory Bird Management

811-Z

#### **Migratory Bird Program Position on Pipeline Construction Projects**

The Migratory Bird Treaty Act (MBTA) is based on conventions or treaties with Great Britain (for Canada), Mexico, Japan, and the Soviet Union (now Russia) to protect and conserve migratory birds. The MBTA a strict liability statute, meaning that any take, intentional or not, is prohibited without an appropriate permit from the U.S. Fish and Wildlife Service (USFWS). In addition to direct take of fledged birds, take of bird nests, eggs, and young also is illegal. However, the treaties did allow for the appropriate authorities in each country to authorize take of migratory birds for some reasons, such as hunting and alleviating damage to agricultural crops. Over time, the USFWS (who has been delegated the authority to promulgate rules and enforce laws regarding migratory birds) has issued permits for other reasons (e.g., scientific collecting, falconry). However, in all cases, the take of birds must be the intent of the activity. That is, the action must target the bird specifically to address a particular issue (e.g., killing crows that are damaging a sunflower crop). Circumstances where take occurs, but is not the intent of the activity (destroying a nest by cutting down a tree) is not allowed, and no permit is available for such an activity. In contrast, the Endangered Species Act (ESA) does allow for the incidental take of birds in some cases where an overall benefit to the species or population can be documented from the activity proposed. However, incidental take under ESA applies only to species or populations that are federally listed as threatened or endangered. Thus, most species of migratory birds could not be taken under the ESA incidental take provisions.

In the case of pipeline construction (and many other energy-development initiatives), activities associated with building the pipeline have a high likelihood of taking nests, eggs, and young if conducted during the nesting season. Also, such take would be incidental (i.e., the intent of the activity is to build a pipeline, not to take birds), so any take would be illegal. Thus, any take of birds, nests or eggs that occurs during construction could be prosecutable under Federal statutes. Further, if the construction results in infrastructure that takes birds even after construction is complete (e.g., power lines), that take also is prohibited and could be adjudicated.

Because of the high likelihood of the illegal take of birds, nests and eggs during the nesting season, the Migratory Bird Programs (Programs) in Regions 2 and 6 strongly encourage that construction activities occur outside of the primary nesting season for migratory bird species in the project area. Even though conducting activities outside of the nesting season will not completely eliminate the possibility of taking a migratory bird, the likelihood of take is extremely small in most cases.

If construction cannot occur outside of the primary nesting season, the Programs strongly recommend that areas in which construction activities are scheduled to occur be cleared of vegetation and other suitable nesting substrates prior to the nesting season. Such activities would make the areas relatively unattractive to nesting birds, thereby reducing the likelihood of nesting activities. However, the likelihood of taking birds, nests and eggs would still be higher than if construction activities occurred completely outside of the nesting season. Such take would still be illegal. However, if the project proponent and construction company consults with the Programs and makes appropriate efforts to clear vegetation according to recommendations by the Programs, and take still occurs, the Programs could discuss the circumstances with law-enforcement personnel and indicate that the company was cooperating with the Service and

## FA3 – U.S. Department of the Interior (cont'd)

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incorporating the Service's recommendation into their construction timelines and activities. The Office of Law Enforcement could still cite the company, but they typically expend their efforts pursuing cases where there is a disregard for the resource and there is a lack of coordination and communication with the Service and its guidelines.

The Programs in most cases will not support construction activities that occur during the primary nesting season, unless substantive efforts to conduct such activities outside of the primary nesting season failed. That is, project proponents must show (with appropriate documentation) that planning and efforts were such that the intent was to conduct activities outside of the primary nesting season or, in the event that was not possible, that every effort was made to make habitats unsuitable for nesting (e.g., clearing vegetation, removing structures). Planning timelines for the project should strongly consider the nesting seasons of migratory birds and plan accordingly to avoid construction during those times. However, the Programs recognize that in some instances, issues may be outside the control of project proponents that preclude them from conducting activities during the planned times. In such instances, and where construction must occur during the nesting season due to issues beyond the proponent's control, surveys must be conducted to determine whether birds are nesting within the construction footprint, and the company must contact the Service (Ecological Services and Migratory Bird programs) if bird nests/eggs are found to determine appropriate next steps. Those steps could include a stoppage of work. Because conducting activities during the nesting season have a much higher likelihood of negatively impacting birds, would likely result in substantial additional costs to the company for nest surveys, and could result in a delay of construction activities, the Programs strongly recommend that activities not be conducted during the nesting season.

Importantly, the Migratory Bird Programs are charged with promoting activities that conserve and protect migratory birds, and for discouraging activities that could negatively impact them. Given our mission and legal mandates, we cannot support activities that we know or highly suspect will result in the take of migratory birds. In this case, we cannot support a proposal by the company to conduct construction activities during the nesting season without having made the nesting habitats less attractive for nesting birds, or for performing activities during the nesting season without conducting surveys to detect nesting birds, because such activities have a high likelihood of taking birds and bird nests and eggs. In our opinion, sufficient time exists to either conduct construction outside of the nesting season, or to alter habitats as we have recommended prior to the nesting season.

Although companies at times are willing to provide funds to help offset the habitat impacts associated with their activities (an equivalent concept in legal proceedings is "mitigation"), such activities provide for a substitution of habitat only, and could not compensate for any loss of birds. Even in cases of legally mandated litigation, the courts have decided that mitigation applies only to the loss of habitat, not for the loss of the birds themselves. Therefore, in our opinion, any provision to improve habitats either on- or off-site similarly would apply only to the habitats, and should not be construed as providing "compensation" for any take of birds.

**Suggested Priority of Migratory Bird Conservation Actions for Pipeline Projects**  
**U.S. Fish and Wildlife Service, Migratory Bird Management**

1. Avoid any take of migratory birds and/or the loss, destruction, or degradation of migratory bird habitat while completing the proposed project or action.
2. If the proposed project or action includes the potential for take of migratory birds and/or loss or degradation of migratory bird habitat, then complete all portions of the project or action that could impact migratory birds completely outside the migratory bird nesting season. This includes any habitat modification such as clearing or cutting of vegetation, grubbing, etc. The primary nesting season for migratory birds can vary by species and geographic location, but generally extends from early April to mid-July. The maximum time period for the migratory bird nesting season is generally from early February to late August; however, project proponents should consult with the appropriate Regional Migratory Bird Program (USFWS) for specific dates. Also, eagles may be on territory and initiating nesting as early as late December or January. Strive to complete all work outside the maximum migratory bird nesting season to the greatest extent possible. Always avoid any habitat alteration, removal, or destruction during the primary nesting season for migratory birds.
3. If a proposed project or action includes the potential for take of migratory birds and/or the loss or degradation of migratory bird habitat and work cannot occur outside the migratory bird nesting season (either the primary or maximum nesting season), project proponents will need to provide the USFWS with an explanation for why work has to occur during the migratory bird nesting season. Further, in these cases, project proponents also need to demonstrate that all efforts to complete work outside the migratory bird nesting season were attempted, and that the reasons work needs to be completed during the nesting season were beyond the proponent's control.

Also, where project work cannot occur outside the migratory bird nesting season, project proponents should survey those portions of the project area to determine if migratory birds are present and nesting in those areas. In completing these bird surveys, extra emphasis should be placed on the USFWS Birds of Conservation Concern (USFWS 2008) and detecting their presence. Surveys for nesting migratory birds should be completed the year before the nesting season in which proposed project or action is scheduled to occur (i.e., survey for nesting migratory birds the year before the nesting season when the project or action will occur). Bird surveys should be completed during the nesting season in the best biological timeframe for detecting the presence of nesting migratory birds. Also, bird surveys should be done using accepted bird survey protocols. USFWS Offices can be contacted for recommendations on appropriate survey techniques. At least 1 full nesting season survey should be completed prior to beginning work on the project to better inform any decisions about the likely presence of nesting migratory birds in the proposed project or work area. Project proponents should also be aware that results of migratory bird surveys are subject to internal variability. Finally, project proponents will need to conduct migratory bird surveys during the actual year of construction, if they cannot avoid work during the primary nesting season (see above).



## FA3 – U.S. Department of the Interior (cont'd)

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4. If no migratory birds are found nesting in proposed project or action areas, then the project activity may proceed as planned.
5. If migratory birds are present and nesting in the proposed project or action area, contact your nearest USFWS Ecological Services Field Office and USFWS Region Migratory Birds Program for guidance as to appropriate next steps to take to minimize impacts to migratory birds associated with the proposed project or action.

\* Note: these proposed conservation measures assume that there are no Endangered or Threatened migratory bird species present in the project/action area, or any other Endangered or Threatened animal or plant species present in this area. If Endangered or Threatened species are present, or they could potentially be present, and the project/action may affect these species, then consult with your nearest USFWS Ecological Services Office before proceeding with any project/action.

\*\* The Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, possession, transportation, and importation of migratory birds, their eggs, parts, and nests, except when specifically authorized by the Department of the Interior. While the Act has no provision for allowing unauthorized take, the USFWS realizes that some birds may be killed during pipeline construction even if all reasonable measures to protect them are used. The USFWS Office of Law Enforcement carries out its mission to protect migratory birds through investigations and enforcement, as well as by fostering relationships with individuals, companies, and industries that have taken effective steps to minimize their impacts on migratory birds, and by encouraging others to enact such programs. It is not possible to absolve individuals, companies, or agencies from liability even if they implement avian mortality avoidance or similar conservation measures. However, the Office of Law Enforcement focuses its resources on investigating and prosecuting individuals and companies that take migratory birds without regard for their actions or without following an agreement such as this to avoid take.

\*\*\* Also note that Bald and Golden Eagles receive additional protection under the Bald and Golden Eagle Protection Act (BGEPA). BGEPA prohibits the take, possession, sale, purchase, barter, offer to sell, purchase, or barter, transport, export or import, of any Bald or Golden Eagle, alive or dead, including any part, nest, or egg, unless allowed by permit. Further, activities that would disturb Bald or Golden Eagles are prohibited under BGEPA. "Disturb" means to agitate or bother a Bald or Golden Eagle to a degree that causes, or is likely to cause, based on the best scientific information available, (1) injury to an Eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior. If a proposed project or action would occur in areas where nesting, feeding, or roosting eagles occur, then project proponents may need to take additional conservation measures to achieve compliance with BGEPA.

**NATIVE AMERICAN TRIBES  
COMMENTS AND RESPONSES**

# NATIVE AMERICAN TRIBES

## NAT1 – The Hopi Tribe



ORIGINAL

LeRoy N. Shingoitewa  
CHAIRMAN

Herman G. Honanie  
VICE-CHAIRMAN

November 4, 2013

Kimberly D. Bose, Secretary  
Attention: Eric Howard, Archaeologist  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, D.C. 20426

Re: Sierrita Gas Pipeline Project, FERC Docket No. CP13-73-000  
Draft Environmental Impact Statement

FILED  
SECRETARY OF THE  
COMMISSION  
2013 NOV 12 A 9 19  
FEDERAL ENERGY  
REGULATORY COMMISSION

Dear Secretary Bose,

This letter is in response to the Draft Environmental Impact Statement regarding Kinder Morgan proposing the 60.5 mile long Sierrita Gas Pipeline Project in Pima County. The Hopi Tribe claims cultural affiliation to prehistoric cultural groups in Arizona, including the Hohokam cultural group in southern Arizona. The Hopi Cultural Preservation Office supports the identification and avoidance of prehistoric archaeological sites, and we consider the prehistoric archaeological sites of our ancestors to be "footprints" and Traditional Cultural Properties. Therefore, we appreciate the Federal Energy Regulatory Commission (FERC)'s continuing solicitation of our input and your efforts to address our concerns.

In a letter on this proposal to El Paso Natural Gas Company dated May 29, 2012, the Hopi Cultural Preservation Office stated we are interested in consulting on any proposal in Arizona that has the potential to adversely affect prehistoric sites. In a letter to FERC dated September 10, 2012, we stated we understood the survey report identified 60 cultural resources along both alternatives routes.

In a letter to SWCA dated October 16, 2012, we reviewed the cultural resources survey report that identifies 49 Native American sites. In a letter to SWCA dated May 13, 2013, we reviewed the revised survey report, a supplemental survey report, and assessment of the potential impacts. In a letter to SCWA dated June 25, 2013, we reviewed the addendum cultural resources survey report for a route modification and the revised assessment report.

## NAT1 – The Hope Tribe (cont'd)

Kimberly D. Bose  
November 4, 2013  
Page 2

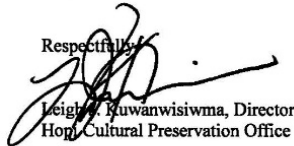
In a letter to FERC dated July 22, 2013, we reviewed the correspondences from FERC to the Arizona State Historic Preservation Office and stated we understood the Tohono O'odham Nation has submitted a resolution opposing the project based on the adverse effects to numerous cultural resource sites that are regarded as sacred and significant including the Alter Valley and Baboquivari Peak. Therefore, we declared our support for the Tohono O'odham Nation resolution in opposition to this proposal.

NAT1-1 We have now reviewed the Draft Environmental Impact Statement which states that data recovery is proposed at three National Register eligible sites and the review process under the National Historic Preservation Act is not yet complete. Because FERC has not recommended any route alternatives, we continue to support the Tohono O'odham Nation by supporting the No Action alternative in this draft Environmental Impact Statement. By approving the Proposed  
NAT1-2 Action the Federal government would continue to approve economic interests that adversely affect Native American Sacred Sites.

We reiterate our request for continuing consultation on this proposal including being provided with copies of all documents related to FERC's efforts to comply with the relevant laws and orders in the evaluation of this proposal, including additional cultural resource survey reports and proposed treatment plans for review and comment.

If you have any questions or need additional information, please contact Terry Morgart at 928-734-3619 or [tmorgart@hopi.nsn.us](mailto:tmorgart@hopi.nsn.us). Thank you for your consideration.

Respectfully,



Leigh A. Kuwanwisiwma, Director  
Hopi Cultural Preservation Office

xc: Peter Steere, Tohono O'odham Nation  
Jerome Hesse, SWCA, 343 West Franklin Street, Tucson, Arizona 85701  
Arizona State Historic Preservation Office

NAT1-1 Comment noted.

NAT1-2 Comment noted.

Z-124

# NATIVE AMERICAN TRIBES

## NAT2 – San Carlos Apache Tribe

20131202-4002 FERC PDF {Unofficial} 12/02/2013



Received from Tribal Admin 11/22/13

Mailed 11/24/13 (initial & date)

Faxed 11/24/13 (initial & date)

SAN CARLOS APACHE TRIBE  
Historic Preservation & Archaeology Department  
P.O. Box 0  
San Carlos Arizona 85550  
Tel. (928) 475-5797, Fax (928) 475-2423

### Tribal Consultation Response Letter

www.ferc.gov

Date: 11/19/13  
Contact Name: Kimberly D. Bose, Secretary  
Company: Federal Energy Regulatory Commission  
Address: 888 First Street NE Room 2A Washington, DC 20426  
Project Name/#: DEP/D-2E/Cas 4 Sierra Gas Pipeline LLC Docet No. 0213-73-000

Dear Sir or Madam: DEIS-Sierra Pipeline Project, Oct. 2013

Under Section 106 and 110 of the National Historic Preservation Act, we are replying to the above referenced project. Please see the appropriate marked circle, including the signatures of Vernelda Grant, Tribal Historic Preservation Officer (THPO), and the concurrence of the Chairman of the San Carlos Apache Tribe:

☒ **NO INTEREST/NO FURTHER CONSULTATION** VG Dns (sign & date) 11/19/13  
I have determined that there is not a likelihood of eligible properties of religious and cultural significance to the San Carlos Apache Tribe in the proposed project area.

☐ **CONCURRENCE WITH REPORT FINDINGS & THANK YOU** (sign & date)

NAT2-1

☒ **ADDITIONAL INFORMATION** VG Dns (sign & date) 11/19/13  
I require additional information in order to provide a finding of effect for this proposed undertaking, i.e.  
Project description Map Photos & Other defers to Tohono O'odham Nation

☐ **NO EFFECT** (sign & date) Cultural Resource Dept.

I have determined that there are no properties of religious and cultural significance to the San Carlos Apache Tribe that are listed on the National Register within the area of potential effect or that the proposed project will have no effect on any such properties that may be present.

☐ **NO ADVERSE EFFECT** (sign & date)

Properties of cultural and religious significance within the area of effect have been identified that are eligible for listing in the National Register for which there would be no adverse effect as a result of the proposed project.

☐ **ADVERSE EFFECT** (sign & date)

I have identified properties of cultural and religious significance within the area of potential effect that are eligible for listing in the National Register. I believe the proposed project would cause an adverse effect on these properties. Please contact the THPO for further discussion.

**STIPULATION:** We were taught traditionally not to disturb the natural world in a significant way, and that to do so may cause harm to oneself or one's family. Apache resources can be best protected by managing the land to be as natural as it was in pre-1870s settlement times. Please contact the THPO, if there is a change in any portion of all previously discussed projects. Thank you for contacting the San Carlos Apache Tribe, your effort is greatly appreciated.

CONCURRENCE: Terry Rambler, Tribal Chairman

11/20/13  
Date

(cc: SE ATHPA files O'Grant, 2013, mds:sl)

NAT2-1

Comment noted.

Z-125

# NATIVE AMERICAN TRIBES

## NAT3 – Tohono O’odham Nation

20131212-5013 FERC PDF (Unofficial) 12/16/2013 5:50 PM



### TOHONO O'ODHAM NATION

#### OFFICE OF ATTORNEY GENERAL

P. O. Box 830 – Sells, Arizona 85634

Telephone (520) 383-3410

Fax (520) 383-2689

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

December 11, 2013

RE: Sierrita Gas Pipeline LLC/Sierrita Pipeline Project, Dockets Nos. CP 13-73-000; CP 13-74-000

Dear Ms. Bose:

The Tohono O’odham Nation is writing to request an extension of time in which to submit comments on the Sierrita Pipeline Project Draft Environmental Impact Statement (“DEIS”). As indicated in the DEIS, the purpose of this pipeline is to “interconnect with the Sásabe-Guaymas Pipeline in Mexico... In Mexico, the 338-mile-long Sásabe-Guaymas Pipeline would extend from the U.S.-Mexico border near El Sásabe, Mexico to generate electric generating facilities near the Cities of Puerto Libertad and Guaymas, Mexico.” DEIS ES-1. However, virtually no information is provided in the DEIS regarding the pipeline in Mexico. This Project is located in the historic Papagueria, which has been the home to Tohono O’odham for thousands of years and extends beyond the current boundaries of the Nation into Mexico. Today, approximately nine O’odham communities in Mexico lie at the southern edge of the Tohono O’odham Nation. In addition to currently occupied villages, countless cultural resources that are significant to Tohono O’odham could be adversely impacted by the pipeline.

NAT3-1 Although FERC maintains that there is “no jurisdictional basis for the Commission to approve, mitigate, or reject any of the Mexico facilities,” with members, villages, and cultural resources both north and south of the border, the Nation must understand the impact of the entire Project,

NAT3-1

The Nation’s request to extend the draft EIS comment period by 60 days so that it could obtain information about the Sasabe-Guaymas Pipeline in Mexico is noted. The request is related to information and decisions outside the Commission’s jurisdiction (i.e., project in Mexico).

Also see response to comment PM1-37.

## NAT3 – Tohono O’odham Nation (cont’d)

20131212-5013 FERC PDF (Unofficial) 12/11/2013 6:58:01 PM

NAT3-1  
(cont'd)

including the portion located in Mexico, before it can effectively comment on the DEIS. DEIS at 1-14.

Due to the lack of this information in the DEIS, the Nation has been attempting to obtain this information on its own. Nation staff has made repeated inquiries to Instituto Nacional de Antropología e Historia (“INAH”), Kinder Morgan, and Semptra Energy in an attempt to obtain even the most basic information regarding the route in Mexico. To date, the Nation has not received any information – not even so much as a map that would indicate where the pipeline will be placed. In order to allow the Nation to obtain this information and fully analyze the impacts, the Nation requests a 60 day extension of time to submit comments on the DEIS.

Sincerely,



Laura Berglan  
Assistant Attorney General

# NATIVE AMERICAN TRIBES

## NAT4 – Tohono O’odham Nation

20131217-5033 FERC PDF (Unofficial) 12/16/2013 6:08:00 PM



### TOHONO O'ODHAM NATION

#### DEPARTMENT OF NATURAL RESOURCES

PO Box 837 Sells, Arizona 85634  
Telephone (520) 383-1511  
Fax (520) 383-3377

Agricultural Extension  
(520) 383-2298  
FAX: (520) 383-3011

Cultural Affairs  
(520) 383-3622  
FAX: (520) 383-3377

Cultural Center/Museum  
(520) 383-0201  
FAX: (520) 383-3377

Livestock Facilities  
(520) 383-6480  
FAX: (520) 383-3011

Livestock Inspector  
(520) 383-3233  
FAX: (520) 383-3011

Mineral Resources  
(520) 383-3031  
FAX: (520) 383-3377

Range Conservation and  
Management  
(520) 383-1301  
FAX: (520) 383-2346

Soil and Water Conservation  
(520) 383-2851  
FAX: (520) 383-3445

Solid Waste Management  
(520) 383-4765  
FAX: (520) 383-5255

Tribal Herd  
(520) 383-2459  
FAX: (520) 383-3377

Well Maintenance  
(520) 383-4930  
FAX: (520) 383-8800

Wildlife and Vegetation  
Management  
(520) 383-1513  
FAX: (520) 383-3377

Rodeo & Fair  
(520) 383-2588  
FAX: (520) 383-8044

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

December 16, 2013

RE: Sierrita Gas Pipeline LLC/Sierrita Pipeline Project, Dockets Nos. CP 13-73-000; CP 13-74-000

Dear Secretary Bose:

Thank you for the opportunity to comment on the Draft Environmental Impact Statement (“DEIS”) for the proposed Sierrita Pipeline Project (“Project”). These comments are submitted on behalf of the Tohono O’odham Nation (“Nation”). As an initial matter, it should be noted that the Nation filed for an extension of time in which to file these comments because the Nation has been unable to obtain any information regarding the pipeline route in Mexico. The Nation has cultural resources and both historic and contemporary villages in Mexico that could potentially be impacted by the pipeline. However, since no ruling on the extension has been issued, the Nation submits the comments as set out below and explicitly reserves the right to supplement these comments once information regarding the pipeline route in Mexico is obtained.

#### I. BACKGROUND

##### A. Overview Of The Proposed Sierrita Pipeline Project

The Project proposes to construct 60.5 miles of 36-inch-diameter natural gas transmission pipeline in Pima County, Arizona. The Project would interconnect with the already-approved Sásabe-Guaymas Pipeline in Mexico. The 338-mile-long Sásabe-Guaymas Pipeline would extend from the U.S.-Mexico border near El Sásabe, Mexico to electric generation facilities near the Cities of Puerto Libertad and Guaymas, Mexico.

Z-128



## NAT4 – Tohono O’odham Nation (cont’d)

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### B. Relevant NEPA Legal Requirements

These comments are submitted to address the DEIS’s compliance with the National Environmental Policy Act (“NEPA”). NEPA is our “basic national charter for the protection of the environment.” 40 C.F.R. § 1500.1. Congress enacted NEPA “[t]o declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; [and] to enrich the understanding of the ecological systems and natural resources important to the [country].” 42 U.S.C. § 4321. To accomplish these purposes, NEPA requires all agencies of the federal government to prepare a “detailed statement” that discusses the environmental impacts of, and reasonable alternatives to, all “major Federal actions significantly affecting the quality of the human environment.” *Id.* at § 4332(2)(C). This statement is commonly known as an environmental impact statement (“EIS”). *See* 40 C.F.R. § 1502.

The EIS must “provide a full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.” *Id.* at § 1502.1. This discussion must include an analysis of “direct effects,” which are “caused by the action and occur at the same time and place,” as well as “indirect effects which ... are later in time or farther removed in distance, but are still reasonably foreseeable.” *Id.* at § 1508.8. Also included in that discussion is a purpose and need statement, which must be reasonable. *Id.* at § 1502.13. An EIS must also consider the cumulative impacts of the proposed federal agency action together with past, present and reasonably foreseeable future action, including all federal and non-federal activities. *Id.* at § 1508.7. Furthermore, an EIS must “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed project. *Id.* at § 1502.14(a).

- NAT4-1 For the reasons set out below, the DEIS for the Project is legally and technically flawed because  
 NAT4-2 the purpose and need is improperly defined, a reasonable range of alternatives is not considered,  
 NAT4-3 and the DEIS fails to adequately assess all of the direct, indirect, and cumulative impacts of the  
 Project. Accordingly, the Nation requests that the Commission deny the requested authorization.  
 NAT4-4 In the alternative, we request that the FERC fully and completely address the following concerns  
 and re-issue the DEIS for further public comments.

### II. INTEREST OF THE NATION

The Tohono O’odham Nation is a federal recognized Indian tribe located in southwestern Arizona. Tohono O’odham have lived in the region known as Papagueria since time immemorial. Historic Papagueria extends over an area much wider than our current reservation; it extends south into Sonora, Mexico, north to central Arizona, west to the Gulf of California, and east to the San Pedro River. This Project covers lands which were part of Papagueria and thus lands which are significant to the Tohono O’odham and their culture. This Project will

- NAT4-1 Sections 1.1.1 and 1.1.2 have been updated to provide additional information regarding the Project’s purpose and need.
- NAT4-2 See response to comment PM1-6.
- NAT4-3 The EIS was prepared in accordance with NEPA, CEQ guidelines, and other applicable requirements. The EIS includes sufficient detail to enable the reader to understand and consider the issues raised by the proposed Project and addresses a reasonable range of alternatives. The EIS is consistent with FERC style, formatting, and policy regarding NEPA evaluation of alternatives and different types of impacts, including cumulative impacts. Duration and significance of impacts are discussed throughout the various EIS resource sections. The EIS is comprehensive and thorough in its identification and evaluation of feasible mitigation measures to reduce those effects whenever possible. Sierrita’s construction and restoration plans contain numerous mitigation measures to avoid or reduce Project-related impacts and promote revegetation and restoration of the Project area following construction.
- NAT4-4 The Nation’s request to re-issue the draft EIS is noted.
- NAT4-5 The FERC is aware of a number of concerns that the Tohono O’odham Nation has regarding the Project. Discussions of cultural resources, the Baboquivari Peak, BANWR, unauthorized right-of-way use, and the Altar Valley in general are included in sections 4.11, 4.8.5.1, 4.8.2.1, 4.9.2, and throughout the entire EIS. The FERC is in ongoing consultations with the Tohono O’odham Nation.

## NAT4 – Tohono O’odham Nation (cont’d)

20131217-5033 FERC PDF (Unofficial) 12/16/2013 6:08:00 PM

NAT4-5 (cont'd) permanently scar the cultural landscape and destroy numerous cultural resources belonging to the Tohono O’odham and their ancestors.

As set out in Resolution No. 13-119, the Nation has intervened in this matter. The Nation’s concerns regarding the Project as set out in Resolution No. 13-119 include adverse impacts upon cultural resources, Baboquivari Peak, Buenos Aires National Wildlife Refuge and the pristine Altar Valley, and creation of a new north-south corridor for illegal traffic and Border Patrol. The Nation’s concerns as set out in Resolution No. 13-119 have not been adequately addressed in the DEIS as more fully set out below.

### III. THE DEIS DOES NOT ADEQUATELY CONSIDER THE PROJECT’S IMPACTS, ALTERNATIVES, AND PURPOSE AND NEED, VIOLATING NEPA AND OTHER STATUTES

#### A. Statement Of Purpose And Need

NAT4-6 The DEIS provides that “Sierrita’s stated purpose of the Project is to provide a reliable means of natural gas transportation service from the United States to Mexico.” DEIS at 1-1. The FERC should not merely rely upon Sierrita’s stated purpose of the Project. This mere parroting of the project proponent’s goal is not sufficient to serve as a valid purpose and need under NEPA. As a result, the statement of purpose and need is impermissibly narrowly drafted in violation of NEPA and contributes to a flawed alternatives analysis.

#### B. Consideration Of Alternatives

##### 1. *The DEIS does not properly analyze the No Action Alternative.*

NAT4-7 The DEIS gives very little analysis of the No Action Alternative. Instead, FERC launches into a speculative analysis that finds that if the Commission were to choose the No Action Alternative, “other natural gas companies could construct projects in substitute for the natural gas supplies offered by Sierrita.” The DEIS goes on to explain that such speculative projects could have more or less environmental impacts than the current Project. This type of speculation does not belong in the DEIS. The FERC should simply fully analyze the No Action Alternative without speculation.

##### 2. *The DEIS does not adequately consider a proper range of alternatives*

NAT4-8 An EIS must “rigorously explore and objectively evaluate all reasonable alternatives” to the proposed project. *Id.* at § 1502.14(a). The DEIS only addresses in detail two alternatives, which are minor variations on the same alternative. This is not a proper range of alternatives. The primary issue with the alternatives analysis is based upon the fact that FERC refuses to consider a delivery point other than Sasabe. This improperly restricts the alternatives analysis. FERC entirely relies upon Sierrita’s representation that the “proposed crossing near Sasabe is the only

NAT4-6 See responses to comments PM1-4 and NAT4-1.

NAT4-7 The No Action Alternative was prepared in accordance with NEPA, CEQ guidelines, and other applicable requirements and is consistent with FERC style, formatting, and policy regarding NEPA evaluation of alternatives. Furthermore, the analysis in the draft EIS contains sufficient information to allow the FERC staff to conclude that the No Action Alternative would not meet the Project’s objective to transport 200,846 Dth/d of natural gas to the U.S.-Mexico border near Sasabe, Arizona for a 25-year term.

NAT4-8 See responses to comments PM1-4 and NAT4-1.

Z-130

## NAT4 – Tohono O’odham Nation (cont’d)

20131217-5033 FERC PDF (Unofficial) 12/16/2013 6:08:00 PM

NAT4-8 (cont'd) | viable crossing location for the Project.” DEIS 3-5. FERC’s additional rationale for not considering an alternative delivery point is that doing so would be nonsensical because it would be recommending a delivery point that already has been determined to be not viable by [Mexico].” DEIS 3-6. This type of rationale seems to have predetermined the outcome of this Project in violation of NEPA. FERC has structured the NEPA analysis and issues to ensure that the ultimate outcome would be inevitable. This is not proper analysis as envisioned under NEPA.

Since the FERC has so narrowly described the purpose and need for the Project, a consideration of reasonable alternatives – the heart of the EIS – is simply not possible. The flawed purpose and need has led to essentially one alternative (with a minor variation) being viable. This is simply not the informed analysis and decision-making envisioned under NEPA.

a. East Route Alternative collocated with Highway 286

NAT4-9 | The FERC does not fully analyze the East Route Alternative, which would collocate the Project with the Highway 286 corridor through the Buenos Aires National Wildlife Refuge (“BANWR”). The East Route is preferable to the proposed route as it impacts fewer cultural resources, less pristine land, and doesn’t create an additional corridor for illegal traffic. Along the collocated route, only 12 cultural resources sites were identified. However, the FERC chose not to fully analyze the alternative due to opposition raised by the Fish and Wildlife Service (“FWS”). However, the FERC does not describe whether attempts were made to offer the FWS mitigation lands in exchange for routing the Project through the BANWR. FERC simply concludes that “FERC has no authority to require another federal agency to approve a pipeline within that agency’s administrative boundaries...” DEIS 3-11. This summary dismissal of the East Route Alternative does not constitute rigorous exploration of a reasonable alternative.

### C. The DEIS Does Not Adequately Address The Direct, Indirect, And Cumulative Impacts Of The Project.

The EIS must “provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment.” 40 C.F.R. § 1502.1. This discussion must include an analysis of “direct effects,” which are “caused by the action and occur at the same time and place,” as well as “indirect effects which ... are later in time or farther removed in distance, but are still reasonably foreseeable.” *Id.* at § 1508.8. An EIS must also consider the cumulative impacts of the proposed federal agency action together with past, present and reasonably foreseeable future actions, including all federal and non-federal activities. *Id.* at § 1508.7. As set out below, the DEIS fails meet the burden imposed by NEPA.

NAT4-10 | 1. *The DEIS omits too much missing information to allow the public to properly understand the impacts of the Project.*

NAT4-9 See responses to comments PM1-10 and PM1-22.

NAT4-10 See responses to comments PM1-3 and NAT4-3.

## NAT4 – Tohono O’odham Nation (cont’d)

20131217-5033 FERC PDF (Unofficial) 12/16/2013 6:08:00 PM

NAT4-10 (cont'd) Throughout the document, the DEIS indicates information that is yet to be supplied by the project proponent. Examples of these gaps in information include results of geotechnical investigations of the CAP canal crossing (DEIS ES-4), cultural resource surveys are only partially complete (DEIS ES-7), a cultural landscape study is not complete, and no information is provided regarding the impacts on Tohono O’odham cultural resources, sacred sites, and villages in Mexico. Throughout the document, the reader finds bold-face type that directs the project proponent and/or FERC to submit or complete certain tasks/information by the DEIS comment deadline. *See e.g.*, DEIS at 4-21; 4-40; 4-42; 4-43; 4-64; 4-65; 4-67; 4-72; 4-149; 4-173; 4-175; and 4-199. This information should have been included in the DEIS. Decision-making cannot be fully informed with such information gaps. This issue was raised by a commenter during the public hearing on December 12, 2013, at Robles Elementary School. FERC’s response to that comment was that the public can continue to comment on these documents as they are filed. This piecemeal approach does not comply with NEPA. The information contained in the DEIS is incomplete and, as a result, the decision-maker and the public cannot make an informed decision. An agency is required to present complete and accurate information to decision-makers and to the public to allow an informed comparison of the alternatives contained in the EIS. The DEIS falls short of the requirements set out by NEPA.

NAT4-11 2. *The DEIS does not adequately address the impacts on cultural resources.*

The cultural resources survey for the proposed route recorded 45 cultural resource sites and 174 isolates. Of the 45 sites, 12 sites were found to not be eligible for the National Register. The Nation does not agree with these findings and requests additional information to support these findings. Additionally, the DEIS indicates that the cultural resources evaluation and treatment plans have not been completed by Sierrita. DEIS at 4-199.

NAT4-13 Further, the DEIS contains no information about potential O’odham villages or cultural resources sites that may be adversely impacted in Mexico. As a result, the DEIS is incomplete and the Nation cannot make fully informed comments on the document.

NAT4-14 a. The DEIS does not adequately address the impact on Traditional Cultural Places or impacts on the cultural landscape.

The Project will adversely impact the Baboquivari Peak, a Traditional Cultural Place listed on the National Register pursuant to 16 U.S.C. § 470a(d)(6)(A), an area sacred to the Tohono O’odham and the home of I’itoi. Section 4.8.5 provides that visual impacts on Native American religious sites and traditional cultural properties are discussed in Section 4.11.3. However, a review of Section 4.11.3 does not contain a discussion of visual impacts on Native American religious sites and traditional cultural properties. Rather, Section 4.11.3 is the Unanticipated Discovery Plan section. The DEIS does not contain an appropriate analysis of the Project’s impacts on Traditional Cultural Places, including Baboquivari Peak, and the cultural landscape. This lack of analysis does not comply with NEPA.

NAT4-11 All survey reports and associated documentation that has been filed with the Commission has been forwarded to the Tohono O’odham Nation for review. Sierrita is conducting a cultural landscape study for the Project and has included suggestions from the Tohono O’odham Nation Tribal Historic Preservation Officer in the development of the study. Tribal comments on cultural resources survey reports and our determinations or concerns with other resources may be submitted directly to the FERC or Sierrita.

NAT4-12 As discussed in section 4.11.4, all evaluation reports and treatment plans are required to be filed before Sierrita may begin construction.

NAT4-13 See response to comment PM1-35.

The FERC has no authority to require Sierrita to submit information on a project that it is not constructing, nor can the FERC require a foreign business entity to do so when the entity is acting outside of the boundaries of the United States.

NAT4-14 The error regarding the cross-reference in section 4.8.5 has been corrected to refer to section 4.11.2. Section 4.11.2 has been updated to include a discussion of Sierrita’s commitment to complete a cultural landscape study, which is currently being prepared. Sierrita included suggestions from the Tohono O’odham Nation Tribal Historic Preservation Officer in the development of the study. Section 4.11.2 has been updated to include a discussion of Baboquivari Peak.



## NAT4 – Tohono O’odham Nation (cont’d)

20131217-5033 FERC PDF (Unofficial) 12/16/2013 6:08:00 PM

NAT4-15	<p>b. The DEIS does not adequately address the destruction of plants culturally significant to the Tohono O’odham.</p> <p>The DEIS fails to fully analyze the impact of this Project on plants considered culturally significant to the Tohono O’odham. Rather, the DEIS lumps this discussion in with “Wild Harvesting” at page 4-56–4-57. However, there is no discussion about what plants are culturally significant to the Tohono O’odham and how many of those plants will be destroyed if the proposed route is implemented. The DEIS at page 4-57 directs the reader to Section 4.11 for more information on this topic, yet Section 4.11 contains no information on this topic. For generations, Tohono O’odham have harvested saguaro fruits with long poles made of saguaro ribs. The juicy fruit is then eaten raw or cooked down into a syrup. The dried seeds can be ground into flour. To the O’odham, the saguaro is an integral part of their world. Other culturally significant plants to the Nation that should have been addressed in the DEIS include medicinal plants, including Mormon tea, basket-making plants including beargrass, Devil’s claw, yucca, and acorns. This lack of analysis does not comply with NEPA. The DEIS should address the specific impacts that elimination of these resources will have on the Nation and other tribes.</p>
NAT4-16	<p>c. The DEIS’s analysis of cultural resources within the Area of Potential Effects does not adequately consider cumulative and indirect impacts.</p> <p>The DEIS indicates that the area of potential effects (“APE”) for the Project is the right-of-way for construction of the pipeline and auxiliary facilities, additional temporary workspaces, and additional Project workspace outside these areas. DEIS at 4-190. The construction right-of-way is 100-foot-wide. DEIS at 2-2. Sierrita surveyed a 300-foot corridor along the proposed route. That survey yielded a total of 45 archeological sites and 174 isolate finds. Twelve of the sites were not recommended as eligible for listing on the National Register. As indicated above, the Nation does not agree with this finding and requests more information to support it. Table 4.11 1-1 analyzes the remaining 31 sites referencing the sites’ distance from the APE. The Table then concludes that data recovery will only be required on 3 sites and that 22 sites that are either</p>
NAT4-17	<p>located in the APE or within 0-50 feet of the APE will be avoided. This analysis fails to consider the cumulative and indirect impacts on these sites that will likely lead to either an adverse impact on the site or the destruction of the site.</p> <p>The DEIS fails throughout the document to adequately analyze the impacts of recreational use, illegal traffic, and law enforcement use of the pipeline corridor. However, these impacts on cultural resources should be particularly noted. Use of the pipeline corridor by unauthorized users tends to widen the corridor beyond the width originally designed, thus increasing the adverse impacts on cultural resources. It is likely that over the decades, additional use of the corridor and erosion will cause an adverse impact on the 22 sites that are located within the APE or within 0-50 feet of the APE. Thus, the destruction or adverse impact of approximately 25 cultural resource sites is likely as a result of the Project over time. The DEIS, while mentioning the potential for trespass or vandalism at previously inaccessible sites, finds that Sierrita’s</p>

NAT4-15	<p>We appreciate the Tohono O’odham Nation providing information regarding some of the plants that are utilized in past and current cultural activities. Sections 4.4.7 and 4.11.2 have been updated to address potential impacts on these botanical resources. In addition, Sierrita is conducting a cultural landscape study for the Project and has included the suggestions of the Tohono O’odham Nation Tribal Historic Preservation Officer in the development of the study. Further, the FERC is continuing its consultations with federally recognized Indian tribes.</p>
NAT4-16	<p>See the response to comment NAT4-11. The 12 sites determined not eligible for listing in the NRHP were studied and the analysis demonstrated that none met the evaluation criteria of an historic property.</p>
NAT4-17	<p>Section 4.9.2 has been updated to acknowledge potential indirect impacts on cultural resources resulting from unauthorized right-of-way use. Section 4.14.11 addresses cumulative impacts on cultural resources in the Project area.</p>

## NAT4 – Tohono O’odham Nation (cont’d)

20131217-5033 FERC PDF (Unofficial) 12/16/2013 6:08:00 PM

NAT4-17 (cont'd) | proposed mitigation to restore the right-of-way would be expected to minimize these impacts. This is simply not borne out by the history of pipelines in southern Arizona. These impacts should be fully analyzed in the DEIS and more realistic impacts on cultural resources should be explained.

### 3. The DEIS does not adequately analyze Environmental Justice issues.

Executive Order 12898, “Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations,” 59 Fed. Reg. 7629, § 6-609 (1994), requires agencies to advance environmental justice by pursuing fair treatment and meaningful involvement of minority and low-income populations. Fair treatment means that such groups should not bear a disproportionately high share of negative environmental consequences from Federal programs,

NAT4-18 | policies, decisions, or operations. The Environmental Justice section does not even mention the Nation in its analysis. Destruction of cultural resource sites that are ancestral to O’odham is certainly a disproportionate impact. Further, the FERC fails to develop and analyze alternatives that would not have a disproportionate impact on the Nation.

NAT4-19 | a. The DEIS fails to address the United Nations Declaration on the Rights of Indigenous Peoples and FERC’s trust responsibility in connection with the Project.

The United Nations Declaration on the Rights of Indigenous Peoples, which the United States is a signatory to, was adopted by the United Nations General Assembly on September 13, 2007. The United Nations describes the Declaration as setting “an important standard for the treatment of indigenous peoples that will undoubtedly be a significant tool towards eliminating human rights violations against the planet’s 370 million indigenous people and assisting them in combating discrimination and marginalization.” *Frequently Asked Questions: Declaration on the Rights of Indigenous Peoples*, United Nations Permanent Forum on Indigenous Issues.

The Declaration provides that “states shall provide effective mechanisms for prevention of and redress for any action which had the aim or effect of depriving them of their integrity as a distinct people, or of their cultural values or ethnic identities,” and that “Indigenous people have the right to practice and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and visual and performing arts and literature.” Articles 8(2)(a); 11(1). This Project will likely have adverse impacts on cultural resources of the O’odham on both sides of the border. The full impact is not yet understood, as the DEIS has failed to do a complete analysis of the cultural resources that will be impacted.

The FERC has a trust responsibility to the Nation, its members, and its resources. The cultural resources that will be destroyed under adversely impacted by this Project will impact the

NAT4-18 The statistics presented in tables 4.10.7-1 and 4.10.7-1 include all population types, ethnicities, and economic affiliation associated with Pima County, which encompasses the Nation. Regarding environmental justice, section 4.10.7 provides our analysis consistent with FERC policy and regulations.

Also see response to comment PM1-6.

NAT4-19 Our efforts to identify cultural resources and our ongoing consultations with federally recognized Indian tribes as part of NEPA and the section 106 process are consistent with the U.N. Declaration on the Rights of Indigenous Peoples.

## NAT4 – Tohono O’odham Nation (cont’d)

20131217-5033 FERC PDF (Unofficial) 12/16/2013 6:08:00 PM

NAT4-19 | Nation’s ability to develop and teach their traditions and to pass those traditions down to the next (cont’d) generation. These concepts should be addressed in the DEIS.

NAT4-20 | *4. The DEIS fails to adequately analyze the cumulative impacts on habitat fragmentation on the jaguar.*

As indicated in the DEIS, the primary threats to the jaguar are habitat loss and degradation. S-o’ohi mavid (jaguar) is an animal significant to Tohono O’odham. One jaguar has been known to frequent the area. In fact, it is the only jaguar known to freely roam the United States. S-o’ohi mavid prefer wild, open terrain. The Project may have disastrous impacts upon this animal and may destroy efforts to reintroduce s-o’ohi mavid to the area in the future. The DEIS should fully analyze the habitat fragmentation that this Project will cause to the habitat of s-o’ohi mavid and other animals.

NAT4-21 | *5. The DEIS does not adequately analyze the creation of a new north-south corridor for illegal traffic.*

The DEIS acknowledges the concern over the creation of a new north-south corridor for illegal traffic. However, the DEIS fails to fully analyze this real threat. Instead, it provides that “[w]e do not anticipate that construction and operation of the Project, when combined with the activities and projects listed in table 4.14-1, would have an adverse impact on existing deterrent programs and agency efforts to patrol and control illegal activities in the Altar Valley.” DEIS at 4-235. The FERC provides no support for this statement and it is simply not supported by the history of other pipelines in southern Arizona. In fact, on December 12, 2013, just before the public hearing at Robles Elementary School, a Nation staff member witnessed 25 migrants preparing to cross the border using the newly-cleared right-of-way for the Project in Mexico.

The DEIS is dismissive of this fact and the widespread impact that illegal traffic has on cultural resources, vegetation, and wildlife. The DEIS appears to alternate between maintaining that Sierrita’s mitigation efforts will prevent the traffic to Border Patrol will stop the traffic. The DEIS fails to paint a realistic picture for the public of the role that the pipeline will play in illegal traffic in the area.

NAT4-22 | *6. The DEIS does not adequately analyze the long term impacts of the Project and reclamation and vegetation restoration.*

As noted in the DEIS, the Altar Valley is frequently used by human traffickers, narcotics traffickers, and undocumented migrants. DEIS at 4-172. The DEIS indicates that the public could expect that vegetation will be re-established along the Project route in about 75 years, assuming foot and vehicle traffic do not prolong re-establishment. However, the DEIS then indicates that illegal traffic and law enforcement pursuing them is likely to deter vegetation from becoming re-established along the right-of-way. DEIS at 4-174. The FERC refers to various mitigation measures that Sierrita might implement to impede illegal traffic along the right-of-

NAT4-20 | As discussed in section 4.7.1.1, we acknowledge that the primary threats to jaguars are habitat loss and degradation and illegal take. Further, section 4.5.2 addresses Project-related impacts from construction, including fragmentation, which is more specifically discussed in section 4.5.2.1.

NAT4-21 | Section 4.9.1 addresses unauthorized right-of-way use. The conclusion presented in section 4.14.10 is based on the fact that:

- 1) Sierrita committed to maintaining lines of communication with the U.S. Border Patrol and other local law enforcement agencies throughout the construction and operational phases of the Project to identify countermeasures to ensure the safety and security of its personnel;
- 2) Sierrita would develop a Security Plan in coordination with the U.S. Border Patrol and local law enforcement agencies; and
- 3) Sierrita would implement a number of restoration and mitigation measures and techniques where the pipeline is not generally parallel to Highway 286 in consultation with area residents and U.S. Border Patrol to discourage both authorized and unauthorized foot and vehicle use of the right-of-way (see section 4.9.2). Regardless of any Project-specific impact on illegal traffic, the U.S. Border Patrol has stated that it would adapt to the situation and plan against any detected activity resulting from the construction and operation of the Project. The proposed Project would not result in additional impacts on existing deterrent programs and agency efforts to patrol and control illegal activities.

NAT4-22 | Section 4.9.2 has been updated to include a discussion of Sierrita’s proposed right-of-way deterrent methods in combination with its Project-specific Plan, Procedures, and *Reclamation Plan*.

Also see responses to comments PM1-3 and PM1-17.

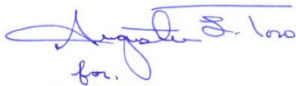
NAT4 – Tohono O’odham Nation (cont’d)

NAT4-22 (cont'd) way, however, a detailed plan is not provided. See DEIS at 4-175. The DEIS has not provided the public with a full picture of mitigation efforts that will be implemented or a realistic picture of reclamation at the Project site. This incomplete analysis does not comply with NEPA.

IV. CONCLUSION

NAT4-23 The DEIS lacks the information the Nation needs to provide comments on the full proposal, as more fully discussed above. For that reason, the FERC should re-draft the DEIS and re-issue it for public comment. Alternatively, the Commission should choose the no action alternative.

Sincerely,



Peter Steere  
Tribal Historic Preservation Officer

NAT4-23 The Nation’s request to re-issue the draft EIS is noted.



NATIVE AMERICAN TRIBES  
NAT5 – Tohono O’odham Nation

Eric Howard

Subject:

FW: Sierrita EIS

From:

Peter Steere [mailto:Peter.Steere@tonation-nsn.gov]

Sent:

Tuesday, November 26, 2013 2:40 PM

To:

'eric.howard@ferc.gov'

Subject:

Re: Sierrita EIS

Eric

NAT5-1

This pipeline is an International Project  
It requires a US. Presidential Permit to cross the border

NAT5-2

The United Nations Declaration on the Rights of Indigenous Peoples signed by the US and Mexico does apply to protect the rights and cultural sites of the Tohono O'odham Nation and other tribes in Mexico

NAT5-3

FERC does have a responsibility to at least provide basic information on the pipeline routes in Mexico so they can be reviewed  
  
FERC needs to have a broader perspective on this entire process rather than just citing procedural rules that limit discussion of project issues  
  
The Mexican part of the pipeline should not be outside of the conversation because it may impact on cultural sites in Mexico significant to the Tohono O'odham Nation and other tribes

Peter

Additional preceding e-mail correspondence is not included because it is not applicable to the draft Environmental Impact Statement.

1

- NAT5-1

Comment noted. A discussion of the Presidential Permit process is provided in section 1.2.1.
- NAT5-2

See the response to comment NAT4-19. The FERC has no regulatory authority in Mexico and, therefore, cannot control how other nations implement international agreements.
- NAT5-3

See the response to comment NAT4-13.

**STATE AGENCIES  
COMMENTS AND RESPONSES**

# STATE AGENCIES

## SA1 – Arizona State Senator John McComish

20131114-0008 FERC PDF (Unofficial) 11/14/2013

JOHN McCOMISH, MAJORITY LEADER  
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PHOENIX, ARIZONA 85007-2844  
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jmccomish@azleg.gov

DISTRICT 18



Arizona State Senate

ORIGINAL

### COMMITTEES:

RULES, VICE CHAIRMAN  
COMMERCE, ENERGY &  
MILITARY  
JCRC (JOINT COMMITTEE  
ON CAPITAL REVIEW)  
JLBC (JOINT LEGISLATIVE  
BUDGET COMMITTEE  
LEGISLATIVE COUNCIL

November 7, 2013

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

RE: Docket numbers CP13-73-000 and CP13-74-000

Dear Ms. Bose:

I am writing in support of the Sierrita Lateral Pipeline Project being reviewed by the Federal Energy Regulatory Commission (FERC). This project will be a key part of our energy infrastructure in the region and internationally for decades to come.

SA1-1 This project will bring considerable benefits to Arizona. For example, it provides a positive economic and job creation impact in southern Arizona during construction. Additionally, the project will generate considerable ad valorem property tax revenues to Pima County estimated to be \$4.9 million per year. In addition to those benefits, the regional environmental impact of conversion of Mexican power generation from fossil fuel to natural gas will pay huge dividends to the economy and environment in both the United States and Mexico.

I appreciate your consideration of these comments as you prepare your final environmental impact statement for this project.

Sincerely,

Senator John McComish, Majority Leader  
Legislative District 18

JM/br

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SECRETARY OF THE  
COMMISSION  
2013 NOV 14 A 9 11  
FEDERAL ENERGY  
REGULATORY COMMISSION

SA1-1

The Arizona State Senator's comments in support of the Project are noted.

Z-138

# STATE AGENCIES

## SA2 – Arizona State Senator Andy Biggs

20131119-0011 FERC PDF (Unofficial) 11/19/2013

ANDY BIGGS  
DISTRICT 12

SENATE PRESIDENT  
FIFTY-FIRST LEGISLATURE

CAPITOL COMPLEX, SENATE BUILDING  
PHOENIX, ARIZONA 85007-3899  
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E-MAIL [abiggs@azleg.gov](mailto:abiggs@azleg.gov)



Arizona State Senate

14 November 2013

COMMITTEES:  
RULES, CHAIRMAN

ORIGINAL

FILED  
SECRETARY OF THE  
COMMISSION  
2013 NOV 19 A 9 17  
FEDERAL ENERGY  
REGULATORY COMMISSION

Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington DC 20426

Re: Docket Nos. CP13-73-000 & CP13-74-000  
FERC/EIS-0247D, published October 2013

Dear Ms. Bose:

I am writing to reiterate my support of the Sierrita Lateral Pipeline Project in Southern Arizona that is being reviewed by FERC.

SA2-1

With the completion of the Environmental Impact Statement, I wish to emphasize the importance of this project to Southern Arizona. It is an environmentally friendly project that will provide hundreds of jobs in Arizona. The permanent jobs created by the pipeline project will also produce much needed tax revenue to Pima County, which was particularly hard hit by the recession.

As one of the purposes of the project is to supply our border neighbor, Mexico, with a clean fuel, the environmental outcome is also welcomed in Southern Arizona.

I view this project as a winner on multiple levels – economically and environmentally. Please help this project move forward rapidly by accelerating its approval by your agency.

Thank you for your consideration of my letter.

All the best,

Andy Biggs  
President of the Senate

ASB/so

SA2-1

The Arizona State Senator's comments in support of the Project are noted.

Z-139

# STATE AGENCIES

SA3 – Arizona State Senator Michele Reagan

MICHELE REAGAN  
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DISTRICT 23



Arizona State Senate

ORIGINAL

COMMITTEES:  
ELECTIONS, CHAIRMAN  
COMMERCE, ENERGY &  
MILITARY, VICE-CHAIR  
FINANCE

December 3, 2013

ORIGINAL

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

RE: Docket numbers CP13-73-000 and CP13-74-000

Dear Ms. Bose:

As Vice Chair of the Commerce, Energy and Military Committee, I am writing in support of the Sierrita Lateral Pipeline Project being reviewed by the Federal Energy Regulatory Commission (FERC). This project will be a key part of our energy infrastructure in the region and internationally for decades to come.

SA3-1 This project will bring considerable benefits to Arizona. For example, it provides a positive economic and job creation impact in southern Arizona during construction. Additionally, the project will generate considerable ad valorem property tax revenues within Pima County estimated to be \$4.9 million per year. In addition to those benefits, the regional environmental impact of conversion of Mexican power generation from fossil fuel to natural gas will pay huge dividends to the economy and environment in both the United States and Mexico.

I appreciate your consideration of these comments as you prepare your final environmental impact statement for this project.

Sincerely,

*Michele Reagan*

Senator Michele Reagan  
Legislative District 23  
Scottsdale/Fountain Hills/Rio Verde

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SECRETARY OF THE  
COMMISSION  
2013 DEC -9 A 11:30  
FEDERAL ENERGY  
REGULATORY COMMISSION

SA3-1

The Arizona State Senator's comments in support of the Project are noted.

Z-140

# STATE AGENCIES

## SA4 – Arizona State Representative Frank Pratt

20131216-0012 FERC PDF (Unofficial) 12/16/2013

FRANK PRATT  
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DISTRICT 8



ORIGINAL

COMMITTEES:  
ENERGY, ENVIRONMENT AND  
NATURAL RESOURCES,  
CHAIRMAN  
AGRICULTURE AND WATER,  
VICE-CHAIRMAN

Arizona House of Representatives  
Phoenix, Arizona 85007

December 9, 2013

FILED  
SECRETARY OF THE  
COMMISSION  
2013 DEC 16 A 9 29  
FEDERAL ENERGY  
REGULATORY COMMISSION

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

RE: Docket numbers CP13-73-000 and CP13-74-000

Dear Ms. Bose:

I am writing in support of the Sierrita Lateral Pipeline Project being reviewed by the Federal Energy Regulatory Commission (FERC). I serve as the chairman of the House Energy, Environment and Natural Resources Committee and have had the opportunity to learn about this project over the past several months. As we look to the future of energy infrastructure in Arizona and in the region, projects like the Sierrita Pipeline will be an important piece of that infrastructure.

SA4-1 | The project will provide economic and job creation impacts in southern Arizona during construction and will generate substantial ad valorem property tax revenues within Pima County. I am also interested in the regional environmental impact of conversion of Mexican power generation from fossil fuel to natural gas, which will pay huge dividends to the economy and environment in both the United States and Mexico.

I appreciate your consideration of these comments as you prepare your final environmental impact statement for this project.

Sincerely,

Frank Pratt  
State Representative  
District 8

SA4-1

The Arizona State Representative's comments in support of the Project are noted.

Z-141

State Agency Comments

# STATE AGENCIES

## SA5 – Arizona State Representative Thomas Shope

20131216-0017 FERC PDF (Unofficial) 12/16/2013

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ORIGINAL

COMMITTEES:  
COMMERCE,  
VICE-CHAIRMAN  
AGRICULTURE AND WATER  
ENERGY, ENVIRONMENT AND  
NATURAL RESOURCES

DISTRICT 8

Arizona House of Representatives  
Phoenix, Arizona 85007

November 15, 2013

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

RE: Docket numbers CP13-73-000 and CP13-74-000

Dear Ms. Bose:

I am writing in support of the Sierrita Lateral Pipeline Project being reviewed by the Federal Energy Regulatory Commission (FERC). This project will be a key part of our energy infrastructure in the region and internationally for decades to come.

SA5-1 This project will bring considerable benefits to Arizona. For example, it provides a positive economic and job creation impact in southern Arizona during construction. Additionally, the project will generate considerable ad valorem property tax revenues to Pima County estimated to be \$4.9 million per year. In addition to those benefits, the regional environmental impact of conversion of Mexican power generation from fossil fuel to natural gas will pay huge dividends to the economy and environment in both the United States and Mexico.

I appreciate your consideration of these comments as you prepare your final environmental impact statement for this project.

Sincerely,

T.J. Shope  
State Representative  
Legislative District 8

FILED  
SECRETARY OF THE  
COMMISSION  
2013 DEC 16 A 9 23  
FEDERAL ENERGY  
REGULATORY COMMISSION

SA5-1

The Arizona State Representative's comments in support of the Project are noted.

Z-142

# STATE AGENCIES

## SA6 – Arizona Game and Fish Department

20131217-5032 FERC PDF (Unofficial) 12/16/2013 6:03:18 PM



### THE STATE OF ARIZONA GAME AND FISH DEPARTMENT

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REGION V, 555 N. GREASEWOOD ROAD, TUCSON, AZ 85745

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#### DIRECTOR

LARRY D. VOYLES

#### DEPUTY DIRECTOR

TY E. GRAY



December 16, 2013

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Re: Sierrita Pipeline Project Draft Environmental Impact Statement

Dear Secretary Bose:

The Arizona Game and Fish Department (Department), along with the U.S. Fish and Wildlife Service, Buenos Aires National Wildlife Refuge (BANWR), and U.S. Customs and Border Protection, is a cooperating agency with the Federal Energy Regulatory Commission (FERC) for the National Environmental Policy Act (NEPA) analysis of the project. We have participated in the planning and review of this project with the FERC, Sierrita Gas Pipeline LLC (Sierrita), and the other cooperating agencies since early 2012. Although Sierrita has submitted to the FERC a considerable amount of detailed information pertaining to the design, construction, and post-construction restoration of the pipeline, there remains a lack of sufficient detail in some of Sierrita's plans to engender confidence that the pipeline will not result in unmitigated impacts to wildlife habitat in the Altar Valley.

Upon review of the Draft Environmental Impact Statement (EIS), the Department submits for your consideration a number of recommendations we feel would help offset wildlife and habitat impacts that would result if the pipeline is certificated. To aid in your response to comments, this letter is structured such that supporting information for each major comment is presented in descriptive paragraphs with specific actions summarized in bolded, italicized bullets.

#### MITIGATION

- SA6-1 | There is no mitigation proposed for the 376.7 acres of permanent disturbance (*i.e.*, acres of vegetation within the 50-foot-wide permanent ROW or occupied by aboveground facilities). It is the policy of the Arizona Game and Fish Commission and the Arizona Game and Fish Department to seek compensation at a 100 percent level, when feasible, for actual or potential habitat losses resulting from land and water projects. Following is text from the Department's Wildlife and Wildlife Habitat Compensation policy:

*The Director of the Arizona Game and Fish Department is authorized under A.R.S. Title 17-211, Subsection D, to perform the necessary administrative tasks required to manage the wildlife resources of*

AN EQUAL OPPORTUNITY REASONABLE ACCOMMODATIONS AGENCY

SA6-1

The AGFD's comments regarding A.R.S. Title 17-211, Subsection D are noted and Sierrita has initiated discussions with ASLD regarding compensation, including permanent impacts associated with aboveground facilities.

Also see response to comment PM1-17.



## SA6 – Arizona Game and Fish Department (cont'd)

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SA6-1 (cont'd) *the State of Arizona. Pursuant to those duties and in accordance with federal environmental laws and resource management acts, such as the National Environmental Policy Act, Fish and Wildlife Coordination Act, and Endangered Species Act, the Director is further charged with cooperating in the determination of potential impacts to Arizona's wildlife resources resulting from federally funded land and water projects. In addition, a Commission M.O.U. assigns similar responsibilities for evaluating proposed projects on lands administered by the State Land Department. An integral part of this process is the development of adequate compensation measures aimed at eliminating or reducing project-associated impacts.*

The Department has initiated discussion with the State Land Department to develop adequate compensation measures to offset project-related impacts.

- *Expand the project mitigation package to include compensation for the 376.7 acres of permanent impact*

### REVEGETATION

SA6-2 Sierrita's biological consultant documented more than 100 native plant species within the project area; Sierrita's revegetation plan recommends a seed mix of only 11 species for semidesert grassland areas and 14 species for Sonoran desertscrub areas. The NRCS employs the use of Ecological Site Descriptions (ESD) in monitoring rangeland condition and determining a site's ability to respond to disturbance. In addition to vegetation information, ecological site classification incorporates climate, soil, and hydrology in describing an area's ecological potential. The Department therefore recommends Sierrita plan its revegetation and monitoring activities using the ESDs occurring in the project area.

Ecological Sites within the Project Area		
Site ID	Site Name	Major Land Resource Areas (MLRA)
R040XA102AZ	Clayey Swale 10-13" p.z.	Sonoran Basin and Range
R040XA112AZ	Loamy Swale 10-13" p.z.	Sonoran Basin and Range
R040XA114AZ	Loamy Upland 10-13" p.z.	Sonoran Basin and Range
R040XA115AZ	Sandy Wash 10-13" p.z.	Sonoran Basin and Range
R040XA117AZ	Sandy Loam Upland 10-13" p.z.	Sonoran Basin and Range
R040XA118AZ	Sandy Loam Upland 10-13" p.z.	Sonoran Basin and Range
R041XC306AZ	Granitic Hills 12-16" p.z.	Southeastern Arizona Basin and Range
R041XC313AZ	Loamy Upland 12-16" p.z.	Southeastern Arizona Basin and Range
R041XC314AZ	Loamy Slopes 12-16" p.z.	Southeastern Arizona Basin and Range
R041XC316AZ	Sandy Wash 12-16" p.z.	Southeastern Arizona Basin and Range
R041XC318AZ	Sandy Loam 12-16" p.z.	Southeastern Arizona Basin and Range
R041XC319AZ	Sandy Loam Upland 12-16" p.z.	Southeastern Arizona Basin and Range
R041XC322AZ	Granitic Upland 12-16" p.z.	Southeastern Arizona Basin and Range

Note: this analysis was done for the 100-ft construction ROW only and may include more Ecological Sites once temporary work spaces and access roads are included

The Department is available to assist the FERC in identifying local practitioners experienced with seed collection, propagation, and restoration in southern Arizona habitats like those in the project area.

SA6-2

Sierrita committed to consulting with the NRCS on the composition of seed mixes and use of locally collected seeds prior to construction. We recommended in section 4.4.8.2 of the final EIS that prior to construction Sierrita file revised versions of its *Reclamation Plan* and *Post-Construction Vegetation Monitoring Document* that identifies Sierrita's final seed mixes and rates developed in consultation with the NRCS and based on proposed seeding schedule(s).

## SA6 – Arizona Game and Fish Department (cont'd)

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- SA6-2 (cont'd) SA6-3
- Use locally collected seed to ensure the greatest likelihood of survival and genetic integrity
  - Develop separate revegetation seed mixes for each of the NRCS Ecological Sites occurring in the project area
- SA6-4
- Allow and/or promote regrowth of sub-shrub, shrub, and small tree species within the permanent 50-foot ROW, exclusive of a 10-foot swath centered over the pipeline, the entire length of the pipeline

SA6-5 The Department recommends including important wildlife forage species in the restoration seed mix. The Mule Deer Working Group has prepared a list of important forage plants for mule deer in the Southwest Deserts Ecoregion (Heffelfinger et al., 2006). Several of the species listed by the Mule Deer Working Group were observed by EPNG's consultant during vegetation surveys of the ROW, however many more mule deer forage plants are likely to occur in the project area yet were undetected during surveys, and would therefore be appropriate to include in the seed mix. The table below is adapted for the proposed pipeline from that publication.

Important Mule Deer Forage in the Project Area	Common Name	Scientific Name
Group 1 (especially important)	Albert's buckwheat	<i>Eriogonum abertianum</i>
	Buckwheat	<i>Eriogonum</i> sp.
	Catclaw acacia	<i>Acacia greggii</i>
	Fairyduster	<i>Calliandra eriophylla</i>
	Jojoba	<i>Simmondsia chinensis</i>
	Mesquite mistletoe	<i>Phoradendron californicum</i>
	Prairie clover	<i>Dalea</i> sp.
	Spiny hackberry	<i>Celtis ehrenbergiana</i>
	Tahitian kidneywood	<i>Eysenhardtia orthocarpa</i>
Group 2 (less important or important during limited periods)	Blue paloverde	<i>Parkinsonia florida</i>
	California barrel cactus	<i>Ferocactus cylindraceus</i>
	Candy barrel cactus	<i>Ferocactus wislizeni</i>
	Catclaw mimosa	<i>Mimosa aculeaticarpa</i>
	Desert ironwood	<i>Olneya tesota</i>
	Desert zinnia	<i>Zinnia acerosa</i>
	Fleabane	<i>Erigeron</i> sp.
	Lacy tansyaster	<i>Machaeranthera pinnatifida</i>
	Littleleaf ratany	<i>Krameria erecta</i>
	Ocotillo	<i>Fouquieria splendens</i>
	Prairie acacia	<i>Acacia angustissima</i> var. <i>suffrutescens</i>
	Slender janusia	<i>Janusia gracilis</i>
	Tansy aster	<i>Machaeranthera</i> sp.
	Thurber's desert honeysuckle	<i>Anisacanthus thurberi</i>
	Velvet mesquite	<i>Prosopis velutina</i>
	Velvetpod mimosa	<i>Mimosa dysocarpa</i>
	Whitethorn acacia	<i>Acacia constricta</i>

- Include important wildlife forage species in the restoration seed mix

SA6-6 Precipitation in the Sonoran Desert is bimodal with two corresponding growing seasons, each with its own suite of plant species. The restoration seed mix should therefore include a variety of species that bloom in response to this bimodal rainfall pattern. Similarly, the mix should include a diversity of annual and perennial plants to mimic those naturally occurring in the project area.

SA6-3 Sierrita committed to consulting with the NRCS on the use of Ecological Site Descriptions (ESDs) in the planning of revegetation and monitoring activities prior to construction. We recommended in section 4.4.8.2 of the final EIS that prior to construction Sierrita file versions of its *Reclamation Plan* and *Post-Construction Vegetation Monitoring Document* that identifies updates to the number and location of monitoring plots based on consultations with the NRCS.

SA6-4 Section 2.6.1.2 has been updated to clarify Sierrita's planned right-of-way maintenance procedures. The Project area is generally devoid of large woody trees that could have roots that could compromise the integrity of the pipeline. Sierrita does not anticipate that it would need to conduct vegetation mowing or clearing of the 50-foot-wide permanent right-of-way, including the 10-foot-corridor centered over the pipeline. Therefore, shrubs, cacti, and herbaceous vegetation would be allowed to be maintained within the right-of-way and, as such, would match surrounding vegetation once successfully re-established.

SA6-5 Sierrita committed to consulting with the NRCS on the composition of seed mixes, including wildlife forage species, prior to construction.

SA6-6 Sierrita committed to consulting with the NRCS on the composition of seed mixes, including annual and perennial species that represent both the spring and late summer/monsoon/fall growing seasons, prior to construction.

## SA6 – Arizona Game and Fish Department (cont'd)

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- SA6-6 (cont'd) • *Ensure restoration seed mixes include a diversity of annual and perennial plants that represent both the spring and late summer/monsoon/fall growing seasons*

SA6-7 While many areas will not have ecological conditions suitable for installation of container stock, a combination of hand watering, use of DRiWATER, and the utilization of vertical mulching and microtopography (some of which will be created to inhibit vehicle access) to enhance natural precipitation, would allow container plant establishment in some locations that are more accessible for maintenance, and to the public. Consider adding a section discussing installation of container plants of native shrubs, grasses, and trees. This section should contain lists of native plant species (and quantities) to be installed for each vegetation community, where appropriate. Plants should be grown in a local environment, using local soils and plant material. Container stock should be grown in a manner that maximizes root structure in order to increase survivability. If certain species cannot be planted directly over the pipeline due to root length restrictions, specify on planting plans where these restricted area are located, and prepare a separate species list (with quantities) for the restricted locations. Wire mesh cages or other materials should be used to protect container stock from herbivory until fully established.

- *Include nursery-grown container plants with appropriate drylands revegetation techniques in the reclamation plan (see Bainbridge2007)*

### MONITORING

SA6-8 The Monitoring Plan is designed to establish monitoring plots on lands held in trust by the Arizona State Land Department (ASLD). In Appendix G (page G-1, 2<sup>nd</sup> ¶) Sierrita states they are willing to include private lands crossed by the pipeline if the landowner so requests. The Monitoring Plan makes no reference to how or when private landowners would be notified of this opportunity to be included in the monitoring. The Department therefore recommends this be made quite clear to affected private landowners in a timely fashion so they may be included, if so desired, from the beginning of the monitoring effort.

- *Notify affected private landowners in a timely fashion so they may be included in the monitoring effort, if so desired, from the beginning*

SA6-9 As stated above, precipitation in the Sonoran Desert is bimodal with two corresponding growing seasons, each with its own suite of plant species. Bimodal monitoring (spring and late summer/monsoon/fall) would best capture the full diversity of species (both native and nonnative) and determine true restoration success or failure. As currently written, timing of the proposed monitoring is unclear. Section 5.0 states monitoring will begin in the spring, yet Section 5.1 refers to monitoring in late summer.

- *Establish a bimodal monitoring program, or at the very least, conduct quantitative monitoring in late summer, following summer monsoons, and qualitative (visual and/or photo) monitoring in spring*

SA6-7 Sierrita has not committed to including nursery-grown container plants as part of reclamation; however, Sierrita intends to minimize impacts and replace some important plant species with nursery stock. Sierrita would implement the specific measures outlined in section 5.0 its *Post-Construction Vegetation Monitoring Document*.

SA6-8 As stated in Sierrita's *Post-Construction Vegetation Monitoring Document*, private landowners may request monitoring of revegetation success on their fee land. In addition, Sierrita states in document, that "...Sierrita remains responsible for overall restoration of the right-of-way. Should Sierrita personnel, agency personnel, or members of the public identify specific areas of concern not included in the monitoring program, Sierrita would assess the success of the restoration at such locations and take corrective action if agreed is necessary with ASLD or landowner."

SA6-9 Sierrita's revised *Post-Construction Vegetation Monitoring Document* states that monitoring would begin in the late summer following construction and after all seeding and transplanting efforts are complete, and would continue annually for at least 5 years. Both seeding and transplanting efforts would be monitored in late summer to assess annual growth inclusive of both winter and monsoon growth.

## SA6 – Arizona Game and Fish Department (cont'd)

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SA6-10 In order to adequately measure restoration success across the diversity of vegetative communities occurring within the project area, we suggest in addition to using the NRCS Ecological Sites to develop restoration seed mixes, this same approach be used for monitoring restoration success.

- *Establish monitoring plots within each of the NRCS Ecological Sites occurring within the project area*

SA6-11 As the Draft EIS points out, vegetation regeneration following construction in the Sonoran desert can be an exceptionally long process. Abella (2010) found full establishment of perennial plant coverage averaged 76 years. Sierrita's post-construction vegetation monitoring plan (DEIS Appendix G) proposes to monitor plant recovery for only 5 years. Transplanted saguaro cacti can take up to 10 years to collapse if injured during transplanting, therefore survivorship cannot be confidently determined if monitoring is conducted for fewer than 10 years (Harris et al. 2004).

- *Monitor saguaro survivorship for a minimum of 10 years*
- *Include saguaro "controls" in the monitoring program (i.e., monitor saguaros outside the disturbed areas)*

SA6-12 Given the slow recovery rate of native desert plants, the Department recommends post-construction vegetation monitoring is conducted annually for the first 5 years following construction, then at a progressively graduated schedule. If plant recovery is determined to be proceeding in accordance with recovery objectives after the first 5 years, monitoring should continue: once every 3 years for 2 monitoring periods, then if revegetation continues to meet performance criteria, monitoring would then shift to once every 5 years for 2 more monitoring periods, for a total monitoring period of 20 years. This schedule accomplishes monitoring over an extended time period with actual field work being conducted for only 9 years (see example schedule below):

<u>Monitoring Frequency</u>	<u>Years Monitored</u>
1 x year	2014 - 2018
1 x 3 years	2021, 2024
1 x 5 years	2029, 2034

- *Establish a graduated monitoring schedule that decreases in frequency as restoration progresses, yet provides monitoring over a longer period*

SA6-13 Appendix G (page G-5, ¶ 1) states "Sierrita is responsible for success at particular locations along the ROW until released by the FERC and ASLD, assuming that such release is not unreasonably withheld". Sierrita should be held accountable for revegetation success throughout the project area; all areas they disturb in connection with pipeline construction and operation activities, not only those areas they intend to monitor post-construction.

- *Provide a statement in the Final EIS and in the Certificate that Sierrita is responsible for revegetation success, in accordance with project-specific performance criteria, throughout the project area*

SA6-10

Sierrita committed to consulting with the NRCS regarding additional input on seed mix and seed mix types based on ESDs prior to construction. The number of seed mix types would determine the location of monitoring plots (e.g., 20 upland monitoring plots with a specific number of random plots within each seed mix type area). We recommended in the section 4.4.8.2 of final EIS that prior to construction Sierrita file revised versions of its *Reclamation Plan* and *Post-Construction Vegetation Monitoring Document* that identifies Sierrita's final seed mixes and rates developed in consultation with the NRCS and based on proposed seeding schedule(s), and associated updates to the number and location of monitoring plots.

SA6-11

Sierrita would monitor transplanted saguaro cactus for at least 5 years following transplanting. Sierrita revised its *Post-Construction Vegetation Monitoring Document* to include a number of "controls" outside the construction right-of-way, but within the 300-foot survey corridor. Each "control" would be located in the vicinity of transplanted saguaro cacti.

SA6-12

Sierrita would monitor the success of post-construction vegetation for at least 5 years following the initial seeding and succulent transplanting. Sierrita would continue to inspect and monitor portions of the right-of-way where adaptive management strategies have been implemented or in areas of concern. Sierrita would continue annual monitoring until the FERC and/or the BANWR determines that the restoration and revegetation goals have been achieved. In addition, Sierrita would complete restoration activities and monitoring as specified in its easement agreements with the individual landowner or land-managing agency. If it is determined that restoration and revegetation are not successful, Sierrita would meet with the FERC and other appropriate agencies to identify and evaluate problem areas to determine the reason for the lack of success. Adaptive measures may include reseeded or modification of seed mixes or restoration methods.

SA6-13

Section 4.0 of the revised *Post-Construction Vegetation Monitoring Document* states that "While this document establishes the monitoring processes that would be used to assess Project success with restoration, Sierrita remains responsible for overall restoration of the right-of-way. Should Sierrita personnel, agency personnel, or members of the public identify specific areas of concern not included in the monitoring program, Sierrita would assess the success of the restoration at such locations and take corrective action if agreed is necessary with ASLD or landowner."

Furthermore, the FERC would continue its oversight of the Project area after construction by conducting its own compliance inspections. The FERC would require Sierrita to continue its revegetation efforts until the FERC determines that restoration is successful and/or the right-of-way is stable.

## SA6 – Arizona Game and Fish Department (cont'd)

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SA6-14 The monitoring plan states 20 monitoring sites would be selected based on ecological parameters (page G-8). Examples given are vegetation type, soil type, land ownership, and washes. Land ownership is not an ecological parameter and should not be a factor in selecting monitoring sites, unless the land owner declines to allow Sierrita to establish any monitoring plots on their property.

It is unclear how the number of 20 monitoring sites was determined. Over the 60-mile pipeline length this appears to be an inadequate sample size. The monitoring sample size should be statistically significant, locations randomly selected, and methodology for thoroughly explained.

- *Provide statistical justification for the monitoring plot sample size and more detailed description of plot location selection*

SA6-15 Any disturbed site will be difficult, if not impossible, to restore if disturbance is ongoing. Therefore, to ensure restoration success of this pipeline it is critical that vehicular access is prohibited and foot traffic kept to an absolute minimum. Sierrita has proposed a plan to restrict unauthorized use of the pipeline ROW, but has not yet explained how their staff and contractors would access the ROW for monitoring and maintenance. Access on foot or by horseback would be appropriate. Access by ATV could be problematic if observed by those not authorized to use the ROW. Tire tracks are often viewed as an invitation to subsequent vehicular traffic.

- *Specify how Sierrita employees and contractors will access the ROW post-construction and what measures will be employed to obscure tire tracks if any type of vehicle will be used*

SA6-16 If Sierrita and the FERC are truly committed to restoring the ROW, all weed species within the ROW must be treated. The competitive advantage of weed species in disturbed areas poses a significant challenge to revegetation efforts. Keeping weed species at bay during revegetation within the ROW not only gives native species their best chance for establishment within the ROW, it also keeps weed species from rapidly expanding from one location in the project area to others, using the ROW as a ready avenue for colonization. Sierrita should be held to a minimum weed control standard, with landowners given the opportunity to request additional weed control measures on their property. Appendix D-2, Item 11 gives landowners the ability to approve the use of soils *not* free of noxious weeds and soil pests. Such flexibility in the weed management plans could thwart restoration efforts on either side of a landowner taking such action.

- *Strike "unless otherwise approved by the landowner" from Appendix D, Section II B, item 11 (page D-2)*

SA6-17 The proposed piling of boulders at ROW/existing access road intersections could pose a serious challenge to weed control. If buffelgrass were to become established in such boulder piles, it would likely require periodic herbicide treatment over a number of years because the boulders would provide cover for seeds dropped by the plants.

- *Consider additional weed control measures for proposed boulder piles*

SA6-14 The AGFD's comments regarding land ownership and justification for the monitoring plot sample size and plot location selection are noted. Based on Sierrita's consultation with NRCS regarding seed mix types based on ESDs, the number and location monitoring plots may be adjusted.

Also see response to comment SA6-10.

We agree that "Land ownership" is a typo that should be changed to "land use," as discussed on page G-7.

SA6-15 Sierrita clarified that it would use existing roads to travel to and from the permanent right-of-way following construction. Sierrita would perform noxious weed control, vegetation monitoring, and general maintenance activities by pedestrian means. Sierrita does not anticipate vehicle use along the permanent right-of-way for monitoring or general maintenance activities following final restoration and clean-up. Section 4.4.9 has been updated to include this information.

SA6-16 This provision of Sierrita's Plan applies to soils imported for agricultural or residential use, which recognizes that landowners may request specific approaches to restoration on their residential and agricultural lands. This provision would only apply to residential properties crossed in the northern portion of the Project and only if requested by the landowner. (No agricultural lands are crossed by the Project.)

SA6-17 Sierrita's commitments to control and prevent the spread of noxious weeds as described in its *Noxious Weed Control Plan* apply to all Project areas, including rock/boulder areas.

## SA6 – Arizona Game and Fish Department (cont'd)

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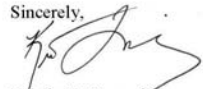
Ms. Kimberly Bose  
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SA6-18 Once performance criteria for revegetation have been met, the Department recommends the continued treatment of weeds within the ROW when weed densities are at 10 percent or greater. Allowing weed densities to reach 25 percent cover provides weed species with an unacceptable advantage for population expansion. Page G-19 in Volume II of the DEIS states "Sierrita will target areas for control when the weed cover exceeds 25 percent of the ROW". There is a significant difference between 25 percent cover of the ROW and 25 percent *relative* cover.

- *Clarify the threshold of percent relative cover for weeds that would trigger treatment. The Department suggests this threshold should be 10 percent relative cover*

Throughout the NEPA process for the proposed pipeline, FERC staff and their contractors have provided exceptional guidance and thoughtful consideration of cooperating agency comments and recommendations. If the Arizona Game and Fish Department can be of further assistance to your agency, or clarification of any of the comments contained within this letter is needed, please contact me at 520-388-4447, or [kterpening@azgfd.gov](mailto:kterpening@azgfd.gov).

Sincerely,



Kristin K. Terpening  
Habitat Specialist, Region V

cc: Steven L. Spangle, USFWS Field Supervisor  
Laura Canaca, AGFD Project Evaluation Program Manager  
Sally Gall, Buenos Aires National Wildlife Refuge Manager

### References

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SA6-18

Sierrita revised its *Post-Construction Vegetation Monitoring Document* to state that in areas where noxious weeds occur within the right-of-way, but not off the right-of-way, Sierrita would target areas for control when the weed cover exceeds 10 percent of the right-of-way. The weed cover percentages would be based on a visual estimate centered on the weed population.

# STATE AGENCIES

SA7 – Arizona State Representative Thomas Forese

Z-150

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tforese@azleg.gov

DISTRICT 17



ORIGINAL

COMMITTEES:  
COMMERCE, CHAIRMAN  
APPROPRIATIONS  
GOVERNMENT  
JOINT COMMITTEE ON  
CAPITAL REVIEW

Arizona House of Representatives  
Phoenix, Arizona 85007

December 12, 2013

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

FILED  
SECRETARY OF THE  
COMMISSION  
2013 DEC 17 A 9 32  
FEDERAL ENERGY  
REGULATORY COMMISSION

RE: Docket numbers CP13-73-000 and CP13-74-000

Dear Ms. Bose,

My name is Thomas Forese and I am a Member of the Arizona House of Representatives. I am writing you in regards to the Sierrita Pipeline Project being reviewed by the Federal Energy Regulatory Commission. As an advocate of cross-border energy development and a cleaner regional environment, I am in support of the Sierrita Pipeline Project ("Project"). This 204 million dollar Project exhibits impenetrable evidence why the Federal Energy Regulatory Commission should sanction the development of this natural gas pipeline. This Project will create hundreds of jobs during the construction period and indefinitely benefit the economy from the taxes collected. Taxing authorities within Arizona's Pima County will generate an estimated 4.9 million dollars per year from taxes collected during the operating period. This Project will provide a market for transporting United States natural gas production to Mexico, thus, providing Mexico the ability to convert fuel-oil-fired power generation plants into clean natural gas power plants. A cleaner Mexico means a cleaner Arizona.

Although this development may affect some Arizona landowners and other stakeholders, the Project has assured its commitment to working with those distressed by this pipeline route. This Project is a necessity and champions the public interest. It is imperative that this Project be approved to ensure a clean and abundant future.

SA7-1

SA7-1

The Arizona State Representative's comments in support of the Project are noted.

State Agency Comments

**SA7 – Arizona State Representative Thomas Forese (cont'd)**

I am expressing my full support for this Project and encourage your agency's approval. I appreciate your consideration of these comments as you prepare your final environmental impact statement for this project. Thanks for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Th Forese", written in a cursive style.

Thomas Forese



# STATE AGENCIES

## SA8 – Arizona State Representative Rick Gray

20131224-0017 FERC PDF (Unofficial) 12/24/2013

RICK GRAY  
MAJORITY WHIP  
1700 WEST WASHINGTON, SUITE H  
PHOENIX, ARIZONA 85007-2844  
CAPITOL PHONE: (602) 928-5993  
CAPITOL FAX: (602) 417-3225  
TOLL FREE: 1-800-352-9404  
rgray@azleg.gov

DISTRICT 21



ORIGINAL

Arizona House of Representatives  
Phoenix, Arizona 85007

COMMITTEES:  
RULES, VICE-CHAIRMAN  
APPROPRIATIONS  
TRANSPORTATION  
JOINT COMMITTEE ON  
CAPITAL REVIEW  
LEGISLATIVE COUNCIL

December 12, 2013

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

RE: Docket numbers CP13-73-000 and CP13-74-000

Dear Ms. Bose:

I am writing in support of the Sierrita Lateral Pipeline Project being reviewed by the Federal Energy Regulatory Commission (FERC). This project will be a key part of our energy infrastructure in the region and internationally for decades to come.

SA8-1 This project will bring considerable benefits to Arizona. For example, it provides a positive economic and job creation impact in southern Arizona during construction. Additionally, the project will generate considerable ad valorem property tax revenues within Pima County estimated to be \$4.9 million per year. In addition to those benefits, the regional environmental impact of conversion of Mexican power generation from fuel oil to natural gas will pay huge dividends to the economy and environment in both the United States and Mexico. I understand the air quality improvements of this conversion will not only benefit Mexico, but will also improve the air quality in Arizona.

I appreciate your consideration of these comments as you prepare your final environmental impact statement for this project.

Sincerely,

RICK GRAY  
State Representative  
District 21

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SECRETARY OF THE  
COMMISSION  
2013 DEC 24 A 8:58  
FEDERAL ENERGY  
REGULATORY COMMISSION

SA8-1

The Arizona State Representative's comments in support of the Project are noted.

Z-152

# STATE AGENCIES

## SA9 – Arizona State Land Department

20140205-0017 FERC PDF (Unofficial) 02/05/2014

Janice K. Brewer  
Governor

ARIZONA STATE LAND DEPARTMENT

Vanessa P. Hickman  
State Land  
Commissioner

January 29, 2014

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

RE: **Comments on Draft Environmental Impact Statement, Sierrita Pipeline Project,  
Docket No.'s CP13-73-000 & CP13-74-000**

Dear Secretary Bose:

The Arizona State Land Department (the Department) has completed a review of the above mentioned Draft Environmental Impact Statement (DEIS). The Department has compiled a series of comments (see attached) regarding the potential negative impacts of siting the proposed Sierrita Pipeline Project on Arizona State Trust Lands.

By Way of Background, the Department manages approximately 9.2 million acres of State Trust Lands in Arizona. These lands were granted to the State of Arizona under the provisions of the Federal Enabling Act that provided for Arizona's statehood in 1912. These lands are held in Trust and managed for the sole purpose of generating revenues for the 13 State Trust Land beneficiaries, the largest of which is Arizona's K-12 education.

The Department generates revenues from leasing, selling or use of State Trust lands and its resources. Pursuant to the Arizona Constitution, all uses on Trust land must benefit the Trust. As such, it is the Department's responsibility to ensure the negative impacts created by the proposed use of the Sierrita Pipeline Project are avoided, minimized and/or mitigated to the maximum extent possible.

Department staff attended the interagency meeting(s) hosted by Federal Energy Regulatory Commission (FERC) staff and during the meetings offered information regarding the Department's application process for a rights of ways, and rights of entry along with background information on the importance of our grazing lessees. Further, Department staff commented on the need for detailed information regarding visual simulations, restoration, access control and a Plan of Development.

Department staff determine that the DEIS covers a vast array of information, including much of the information requested in the interagency meetings. However, for the Department to support the preferred alignment additional detail(s) regarding construction methods and clarification of restoration and monitoring will be necessary

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2014 FEB -5 A 9:05

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REGULATORY COMMISSION

Z-153

## SA9 – Arizona State Land Department (cont'd)

20140205-0017 FERC PDF (Unofficial) 02/05/2014

January 29, 2014  
Sierrita Pipeline Project  
Page 2 of 2

As the majority land owner affected by this project, we are deeply concerned with the short and long term impacts but, believe our comments can be addressed and are committed to working with FERC staff to resolve these concerns.

Should you have any in the meantime please contact myself or Tim Bolton by telephone at 520-209-4263 or by email at [TBolton@azland.gov](mailto:TBolton@azland.gov).

Sincerely,



Ruben Ojeda  
Manager, Rights of Way Section  
Arizona State Land Department  
(602) 542-2648  
[ROjeda@azland.gov](mailto:ROjeda@azland.gov)

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C: Vanessa P. Hickman, State Land Commissioner  
Jim Adams, Deputy State Land Commissioner  
Stephen Williams, Natural Resource Division Director  
Mark Edelman, Planning and Engineering Section Manager  
Tim Bolton, Principal Planner (Southern Arizona Office)

Z-154

## SA9 – Arizona State Land Department (cont'd)

20140205-0017 FERC PDF (Unofficial) 02/05/2014

Comment No.	Volume	Section	Page	Appendix / Table	Comment
SA9-1	1	II	A-5	A	A benefit to the environment would be remaining remnant parcels between new ROW and existing constraints (e.g., ROW, washes, severe slopes, and property boundaries). If those remnant parcels are difficult to develop due to size and geometry, size or limits. Vanessa Hickman, State Land Commissioner Jim Adams, Deputy State Land Commissioner Mark Edelman, AICP, Planning and Engineering Section Manager Remove Mike Farley, Senior Engineer and replace with Michael Naher, Water Resource Engineer
SA9-2	2	I	4.14	4-224	"Tucson Electric Power Company and Trico Electric Cooperative, Inc. would construct power lines associated with the Project's meter stations, MLVs, and a connector yard for Sierrita. These would consist of an approximately 100-foot-long power supply line to the proposed San Joaquin Road Meter Station; an approximately 1.7-mile-long power supply line to the proposed Sasabe Delivery Meter Station; and various, shorter segments to MLVs 2, 3, 4, and 5, and a connector yard at MP 5.6 from existing nearby power lines along roads."  The Department understands that FERC has no jurisdiction over the power lines. However, due to the fact that the power lines are likely to directly impact State Lands and are identified as cumulative impact(s) the Department is requesting the opportunity to review the power line alignment(s) at the earliest time possible.
SA9-3	3	I	5.1.7	5-6	"We are recommending that Sierrita not begin construction of the Project until FERC staff completes formal consultations with the FWS for the Pima pineapple cactus. We also are recommending that Sierrita develop a plan with the FWS that details the methods it would implement to transplant and monitor Pima pineapple cacti that would be directly impacted by construction."  The Department would appreciate the opportunity to review and comment on any plant(s) that include Native Plants on State Trust Lands.
SA9-4	4	II	V.A.3	D/D-1-7	"Grade the construction right-of-way to restore preconstruction contours and leave the soil in the proper condition for planting, unless the right-of-way is recontoured in specific locations to impede access. Sierrita intends to leave the ROW in a roughened condition which would not allow vehicular access."  Please coordinate with ASLD prior to developing any access control methods on State Trust Land.
SA9-5	5	I	5.1.3	ES-4	"Because the HDD method can avoid disturbing the bed and banks of a wash, including riparian vegetation adjacent to the wash, we are recommending that Sierrita analyze adopting the HDD method at several locations along the pipeline route."  The Department supports any effort to minimize and/or avoid disturbance on State Lands so long as the method is economically feasible.
SA9-6	6	I	5.1.8	5-7	D/D-1 "Sierrita also proposed to use an additional 20 feet of uncleared, extra construction right-of-way adjacent to the 100-foot-wide construction right-of-way in select, non-sensitive locations to place woody vegetation. We are recommending that Sierrita identify the locations of these areas and ensure that they have been surveyed for biological and cultural resources, would not affect sensitive resources, and that no new landowners would be affected."  The Department supports FERC's recommendation that Sierrita provide a list by milepost of where it proposes to implement the use of 20 feet of uncleared extra construction right-of-way.
SA9-7	7	II	V.A.4	D/D-1-7	"The size, density, and distribution of rock on the construction work area should be similar to adjacent areas not disturbed by construction unless the right-of-way is recontoured in specific locations to impede access. Sierrita intends to leave the ROW in a roughened condition which would not allow vehicular access."  Please coordinate with ASLD prior to developing any access control methods on State Trust Land.
SA9-8	8	I	2.5.3	2-21	"Sierrita would prepare its request for route realignments or ATWS locations, including a copy of the survey results, and forward it to the FERC (and other federal land-managing agencies, such as the FWS for access roads on the BLM/NWR, as applicable) in the form of a "variance request." The FERC and/or the other federal land-managing agency would take the lead on reviewing the request, depending on the ownership status of the subject land. Typically, no further resource agency consultation would be required if the requested change is within previously surveyed areas as long as no sensitive species or features were present."  Any additional disturbance on State Trust Land that occurs outside the authorized ROW will have to be reviewed and approved by the State Land Department. The Department would appreciate the opportunity to develop a coordination plan for this variance process.
SA9-9	9	I	3.5.1	3-6	"The total length of the East Route Alternative is 24.8 miles, which is 0.6 mile shorter than the corresponding segment of the proposed route. The East Route Alternative would parallel more existing rights-of-way (93 percent of its total length) and cross 22.6 miles less grassland/land, 2 fewer recreational trails, 5.1 miles less jaguar proposed critical habitat, 37 fewer ephemeral waterbodies, 1 fewer road/railroad crossing, 3.8 miles less shallow bedrock, and 0.4 mile less potential prime farmland."  The portion of the proposed Preferred route between MP R33.9 to MP 58.0 does not appear to follow best management practices as it clearly increases the potential for trespass issues along the ROW in addition to creating greater environmental impacts on State Trust Lands. The DEIS's comparison of impacts proves that Fast route is the best choice. As such, the Department believes the East route should remain as a viable alternative.

SA9-1 The ASLD's comment regarding benefits to the environmental resulting from remaining parcels between the right-of-way and existing constraints is noted.

SA9-2 Tucson Electric Power Company and Trico Electric Cooperative, Inc. would be responsible for obtaining the appropriate permits and authorizations for construction and operation of the proposed power lines.

SA9-3 Section 4.7.1.5 has been updated to note that Sierrita consulted with the FWS to develop an approach for transplanting and monitoring Pima pineapple cacti. Sierrita and the FWS determined that information regarding the Pima pineapple cacti transplanting protocols could be included in Sierrita's *Reclamation Plan* and *Post-Construction Vegetation Monitoring Document* in lieu of preparing a separate transplanting and monitoring plan, as recommended in the draft EIS. Sierrita's revised versions of these plans were filed with the FERC on December 16, 2013, and are included as appendice of the final EIS.

Section 4.4.8.2 discusses Sierrita's commitment to comply with the Arizona Native Plant Law, including working with the ASLD regarding salvaging and replanting of large cacti and agave on the right-of-way.

SA9-4 Sierrita would consult with the landowner or land-managing agency, including the ASLD, prior to installing or maintaining measures to control unauthorized vehicular access to the right-of-way.

SA9-5 The ASLD's comment in support of adopting measures to avoid disturbance to state lands is noted. Section 4.3.2.6 has been updated to include a discussion of Sierrita's evaluation of crossing dry washes and riparian habitat using the HDD method to reduce environmental impacts. This was determined to be impractical in most cases.

SA9-6 In response to our recommendation in the draft EIS, Sierrita provided the locations of where an additional 20 feet of right-of-way width would be required. Appendix D of the final EIS lists the locations by milepost, the land use(s) affected, the acreage affected, and additional comments (e.g., wildlife movement corridor).

SA9-7 See response to comment SA9-4.

SA9-8 Any Project-related ground disturbing activities outside approved areas would require FERC approval, with the exception of off right-of-way activities needed to comply with Sierrita's Plan and Procedures (e.g., slope breakers, energy-dissipating devices, dewatering structures) that do not affect other landowners or sensitive environmental resource areas. All construction or restoration activities outside of authorized areas are subject to all applicable survey and permit requirements, land-managing agency easement grants, and landowner easement agreements.

SA9-9 See response to comment PM1-10.

## SA9 – Arizona State Land Department (cont'd)

20140205-0017 FERC PDF (Unofficial) 02/05/2014

Comment No.	Volume	Section	Page	Appendix / Table	Comment
SA9-10	10	II	V.A.3	D-1-6	"Rock excavated from the trench may be used to backfill the trench only to the top of the existing bedrock profile. Rock that is not returned to the trench should be considered construction debris, unless the rock is to be used to impede access (with landowner approval) or unless approved for use as for some other use on the construction work areas by the landowner or land managing agency." Please coordinate with ASLD prior to developing any access control methods or plans to relocate resources on State Trust Land.
SA9-11	11	II	VI	D-15 to D-16	"To each owner or manager of forested lands, offer to install and maintain measures to control unauthorized vehicle access to the right-of-way. These measures may include: A. Signs; B. Fences with locking gates; C. Slash and timber barriers, pipe barriers, or a line of boulders across the right-of-way; and D. Appropriate trees or shrubs across the right-of-way." Please coordinate with ASLD prior to developing any access control methods on State Trust Land.
SA9-12	12	II	5.3	F-4	"Vehicular access along the ROW will be controlled with significant imprinting and topography management along the ROW. Following construction, during clean-up, the ROW will be imprinted by excavating 18-inch to three foot low areas followed by 18-inch to 3-foot mounds along the length of the ROW to impede vehicular access." Please coordinate with ASLD prior to developing any access control methods on State Trust Land.
SA9-13	13		1.5	1-16	1-5.1 Table is not a local grading and drainage plan. Does the report need approval from local agency for temporary and permanent impacts?
SA9-14	14		1.5	1-16	Page 1-16 states that a nationwide permit is not required for the Project because no wetlands are involved. The paragraph should clarify that the COE is considering NWP 12 as stated in Table 1.5-1 for any permanent impacts to Waters of the U.S. due to the aboveground permanent facilities.
SA9-15	15		2.1.2	2-1	There are six locations with a mainline valve (MLV) that will be closed upon incident. Should there be a backup MLV at each location in case one fails?
SA9-16	16		2.2	2-2	The construction of the pipeline requires temporary construction easement (TCE). Will future repair of the pipeline (if needed due to pipe failure) also require the same TCE width? If so, does this not limit land use next to the proposed permanent easement?
SA9-17	17	2.3.1.5, 2.6.2.6 & 6.5.6	2-13, 4-40 & F-6		Sierrita states a crown of soil up to 1 foot high will be left over the trench to compensate for settling with approximately spaced breaks to allow stormwater conveyance. FERC requests this practice not be employed. If local soil settling occurs and this practice is not employed, will stormwater channelization along/over the pipeline occur? Will this cause further work in the future to add fill and level these areas? Is the practice only discontinued for wash and riparian crossings?
SA9-18	18	2.3.2.1, 2.6.2.6 & 5.2.14	2-16, 2-17 & 3-14		Later re-excavation of the pipe may be needed due to scour, corrosion, or settlement. To avoid later re-excavation of areas that are sensitive (waters of the U.S., etc.) or roads that will later have future expected high traffic roads due to PAG estimates, are pipe sleeves under these areas to be utilized?
SA9-19	19	2.3.2.1, 2.3.2.2 & 4.2.2	2-16, 2-17 & 4-18		If pipe sleeves are recommended under sensitive water of the U.S., will the length be to 10 feet outside the lateral erosion setback limit, the CHWM, the 100-year water surface elevation boundary, or the 100-year floodplain boundary?
SA9-20	20	2.3.2.4	2-17		The pipeline will have at least 1-foot clearance from other underground utilities (49 CFR 192.325). Do the local counties and cities have stricter horizontal and vertical clearance requirements for separation from water and sewer, etc.? What about electrical and communication underground utility requirements?
SA9-21	21	2.6.1.1 & 4.3.2.6	2-22 & 4-43		Monthly aerial patrols will be used to check for erosion. What will be the scale/quality of the aerial photographs? How reliable is this method? What are the method details? (Will 1-foot topographic contours be developed?)
SA9-22	22	2.6.1.1 & 4.13.1	2-22 & 4-214		SCADA will allow control centers operators to remotely close MLV if critical indicators are reached. Why cannot this operation be automatic shutdown as opposed to manually/remotely?
SA9-23	23	3.5	3-5		Section 3.5 states that Sierrita consulted with BEHova/MGI Supply, Ltd. and determined that the proposed Sasabe crossing is the only viable location. What is the title of that consulting report? Is it available for public review?
SA9-24	24	4.1.1	4-2		Should Table 4.1-1-1 be amended to show the slopes of the permanent aboveground facilities and that they are not significant. For example, next to high slope MP 59.2 is the Sasabe Delivery Meter Station, MLV 6, and Pig receiver at MP 59.1 (Pg. 2-1).
SA9-25	25	4.2.2	4-18		Does the crown of the steel pipe need to be below the scour depth or 2-feet below the scour depth as determined from the 100-year storm event?
SA9-26	26	4.8.1.1, 4.8.2.3 & 4.14.9.1	4-154, 4-160 & 4-233		A benefit to the environment would be remaining remnant parcels between new ROW and existing constraints (e.g., ROW, washes, severe slopes, and property boundaries). If those remnant parcels are difficult to develop due to size and geometry, no or limited development would occur in them. Will the EIS/Sierrita list out these remnant parcels?
SA9-27	27	4.10.6 & 4.13.2	4-185 & 4-215		The study states the ROW will be at minimum of 50 years. What is the expected lifetime of the pipeline? Based on past industry experience, is there a graph of length of pipe replaced per age of pipe? This indicates when additional environmental impact would occur.

SA9-10 See response to comment SA9-4.

SA9-11 See response to comment SA9-4.

SA9-12 See response to comment SA9-4.

SA9-13 Table 1.5-1 provides a list of the *major* permits, approvals, and consultations for the Project. Sierrita would be responsible for applying for all permits and approvals required to construct and operate the Project, regardless of whether or not they appear in this table.

SA9-14 Section 1.5 has been updated to correct this error. Sierrita filed a preliminary jurisdictional determination with the COE on September 30, 2013, and is currently awaiting the results of the COE's determination. Sierrita anticipates receipt of COE authorization in April 2014. Sierrita would be subject to the COE's permit requirements, which may include measures above what is identified in Sierrita's construction and restoration plans.

SA9-15 The ASLD's comment regarding a back-up MLV is noted. Section 4.13.1 addresses DOT Minimum Federal Safety Standards and MLV placement.

SA9-16 Should future repair of the pipeline, access, and workspace be necessary, Sierrita would identify the access and workspace requirements based on the repair activity required. Sierrita's Operations and Land Department would coordinate with the landowner or land-managing agency to address site-specific issues. Further, Sierrita would be required to follow existing or seek new appropriate regulatory approvals at that time, including any authorizations that might be required from the FERC or other agencies. Future maintenance possibilities do not limit possible development outside of an existing right-of-way.

SA9-17 FERC does not disagree with Sierrita's proposal to leave soil about the width of the trench and up to 1-foot high over the trench to compensate for settling; this is standard pipeline practice. Ultimately, landowners or land-managing agencies would decide whether or not to require a crowned trench line.

SA9-18 See response to comment SA9-16.

We are not aware of any requirements to install pipe sleeves under washes.

SA9-19 See response to comment SA9-18.

SA9-20 Sierrita is required to comply with DOT standards regarding pipeline depths and separation from other utilities. Furthermore, Sierrita would need to comply with conditions or specific mitigation measures provided in non-federal agency permits, to the extent that such permits do not unreasonably delay, conflict with, or prevent implementation of federal requirements.

## SA9 – Arizona State Land Department (cont'd)

Z-157

- SA9-21 The monthly aerial patrols referred to in these sections do not include taking aerial photographs, but rather are visual inspections of the pipeline right-of-way. Sierrita would conduct aerial and pedestrian surveys of the pipeline right-of-way throughout the life of the pipeline to identify issues such as scouring or potential pipe exposure.
- SA9-22 The ASLD's comment regarding automatic shutdown versus manual/remote shutdown is outside the scope of this EIS. Also see response to comment SA9-15.
- SA9-23 Information regarding Sierrita's business dealings and consultations with IENova and/or MGI Supply, Ltd. is outside the scope of this EIS.
- SA9-24 As stated in section 4.1.1, Sierrita would alter topographic contours by grading aboveground facility sites to provide a safe level work surface.
- SA9-25 Sierrita developed the Scour and Lateral Bank Migration Analysis in coordination with the Pima County RFCD to determine burial depth and associated required right-of-way width and required ATWS at waterbody crossings. The results of this analysis are described in section 4.3.2.6 of the final EIS. Sierrita committed to continuing consultations with the Pima County RFCD to finalize appropriate mitigation measures related to wash crossings and riparian habitat.
- SA9-26 Section 4.8.1.1 has been updated to acknowledge the potential benefit of the pipeline right-of-way near existing infrastructure. With the exception of indirect impacts, analysis of areas outside of the proposal put before FERC staff is outside of the scope of this EIS.
- SA9-27 The lifetime of a pipeline varies depending on site-specific conditions and pipeline material and technology at the time the pipe was installed. A report prepared by the Interstate Natural Gas Association of America entitled "The Role of Pipeline Age in Pipeline Safety" addresses the time-dependent degradation of pipelines and is available online at <http://www.ingaa.org/File.aspx?id=19307>.
- Also see response to comment SA9-16.



## SA9 – Arizona State Land Department (cont'd)

20140205-0017 FERC PDF (Unofficial) 02/05/2014

Comment No.	Volume	Section	Page	Appendix / Table	Comment
SA9-28	28	5.3	F-4		Excavation of 18-36 inch low areas and 18-36 inch mounds along the ROW to impede vehicle access. Will these be problems for livestock and livestock entrapment? Will the low areas erode on steep slopes?
SA9-29	29	5.5	F-5		Water bars to be installed in accordance with specifications outlined in Sierrita's Plan. What is Sierrita's Plan? Does the Arizona State Land Department have a copy?
SA9-30	30	6.2	F-9		ROW restoration without imprinting may occur in locations where the ROW immediately parallels a major roadway or in a site specific location where specifically requested by a landowner or land management agency. We cannot envision what the need for this would be?
SA9-31	31	7.0	F-10 & G-9	G	Purposes of post construction monitoring is to evaluate soil stability, vegetative cover and density...The Post Construction Vegetation Monitoring document (Appendix G), Page G-9, defines proposed metrics as: species composition, frequency, density and dominance. Three of these are not listed as purposes for monitoring in Appendix G. Appendix F and G should be in agreement.
SA9-32	32	7.0	F-10		Vegetative monitoring will occur annually during the growing season for five years. Is this long enough? As opposed to 10, 15, 20 or 25 years?
SA9-33	33	1.2	H-1		The goal of the Noxious and Weed Control Plan is to prevent the spread of existing noxious weeds. There is a discrepancy with the title. Draft Noxious Weed Control Plan, and that used in Section 1.2, Noxious and Weed Control Plan. The title of the plan needs to be decided and used consistently.
SA9-34	34		H-3	J-1	Title of Table J-1 is Non-native, Invasive, and Noxious Weed Species Observed in the Project Area in 2012. Is the focus of the mechanical and herbicide treatments on Non-Native, Invasive or Noxious Species 1, 2 or all 3 of these classes of plants?
SA9-35	35	4.0	H-9		This section is entitled Noxious Weed Management, but invasive species are mentioned in the text. Is the focus of the mechanical treatment noxious or invasive species?
SA9-36	36	7.0	H-12		Under Mechanical methods - equipment would be used to mow or disk weed populations. Disking weed populations, even prior to seed head development, may just perpetuate the problem. ASLD would not recommend disking, mowing would be acceptable, depending on timing.
SA9-37	37		H-14		Treatment Approach during Restoration and Revegetation, Sierrita would obtain approval for seed mixtures from the appropriate agencies... Since the USDA NRCS and USFWS seed recommendations were approved, ASLD would concur with these species for the seed mix.
SA9-38	38	8.0	H-14		Sierrita will work with the ASLD to also treat areas within the 300 ft. ROW to then extent practicable. Sierrita should clarify what is "to the extent practicable."
SA9-39	39	8.0	H-14 & H-15		Reference is made to "relative plant cover" repeatedly. If the Daubenmire Cover Classes are being used then data gathered would be canopy cover, not relative cover. The terminology should be changed to reflect this. The top of Page 11 also states, "Ideally, total relative cover of noxious or invasive weeds...Consistency in reference to noxious, invasive or non-native weed species is needed."
SA9-40					First sentence should read "...Pima County has acquired open space properties and State Trust land grazing leases in the Project area..."
SA9-41	40	4.10.6			First sentence in the 2nd paragraph should read "As mentioned above, Pima County acquired grazing leases of State Trust land, which is managed by ASLD. ASLD will ultimately negotiate the value of the land that that Sierrita would obtain..."

SA9-28

Sierrita would consult with the landowner or land-managing agency prior to installing or maintaining measures to control unauthorized vehicular access to the right-of-way to avoid impacts on livestock. Sierrita would also work with the local landowners and land managers to design site-specific measures intended to limit the cattle movement to the right-of-way.

As committed to in section 7.0 of its *Reclamation Plan*, Sierrita would monitor the Project for erosion and stabilization issues on a monthly schedule following construction. Sierrita would conduct inspections of the right-of-way both from the air and during general pipeline maintenance on the ground of the right-of-way, as required or necessary, over the lifetime of the Project. If there are erosion and stabilization issues that are noted and require attention, Sierrita's Operations and Land Department would coordinate with the landowner or land-managing agency to address site-specific issues. Further, if an issue or concern is identified by a landowner or land-managing agency, Sierrita can be contacted directly at 1-877-598-5263.

SA9-29

Sierrita's original *Upland Erosion Control, Revegetation, and Maintenance Plan*, also referred to as its Plan, was filed as part of its application with FERC (Resource Report 1) and has been filed several times subsequently. The Plan was also included as appendix D of the draft EIS. A revised version was filed on February 3, 2014 by Sierrita and is included as appendix E of the final EIS.

SA9-30

Right-of-way imprinting is one measure Sierrita proposes to adopt to deter unauthorized use of the right-of-way following construction, as discussed in section 4.9.2.

SA9-31

The *Reclamation Plan* and *Post-Construction Vegetation Monitoring Document* are intended to be different documents with different goals; however, some mitigation measures may overlap between the two documents as well as other plans (e.g., *Noxious Weed Control Plan*).

SA9-32

See response to comment SA6-12.

SA9-33

The ASLD's comment regarding the *Noxious Weed Control Plan*'s title is noted.

SA9-34

Sierrita committed to managing non-native species and noxious weeds as classified by the ADA as prohibited, regulated, and/or restricted in accordance with Arizona Administrative Code R3-4-244 and R3-4-245. Section 4.4.5 describes the 11 non-native species that were identified within the Project area during noxious weed surveys, of which 5 species are identified by the ADA as prohibited, regulated, and/or restricted noxious weeds. The potential spread of these weeds would be controlled by implementation of Sierrita's *Noxious Weed Control Plan*.

SA9-35

See response to comment SA9-34.

## SA9 – Arizona State Land Department (cont'd)

Z-159

- SA9-36 The ASLD's comment regarding the *Noxious Weed Control Plan* is noted. Sierrita would apply for all necessary federal, state, and local permits prior to construction. FERC staff expects that information necessary by the ASLD to process Sierrita's permit application (in addition to that described in the EIS), such as weed control measures, would be requested of Sierrita by the permitting agency during the permitting process.
- SA9-37 See response to comment SA6-10. Sierrita would apply for all necessary federal, state, and local permits prior to construction. FERC staff expects that information necessary by the ASLD to process Sierrita's permit application (in addition to that described in the EIS), such as seed mixes, would be requested of Sierrita by the permitting agency during the permitting process.
- SA9-38 We note that these activities are proposed to take place outside of the construction work areas identified in section 2.0 and, if the Project is approved, areas authorized by the Commission. Sierrita would be limited to conducting weed treatment activities outside of the proposed construction right-of-way to the extent it receives appropriate authorizations from the landowner or land-managing agency.
- SA9-39 Sierrita revised its *Post-Construction Vegetation Monitoring Document* to state that in areas where noxious weeds occur within the right-of-way, but not off the right-of-way, Sierrita would target areas for control when the weed cover exceeds 10 percent of the right-of-way. The weed cover percentages would be based on a visual estimate centered on the weed population. Also see response to comment SA9-34.
- SA9-40 Sections 4.8.2.2 and 4.10.3 (where Pima County open space properties are mentioned) have been updated to reflect the ASLD's clarification.
- SA9-41 See response to comment SA9-40.



**SA9 – Arizona State Land Department (cont'd)**

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**State Agency Comments**